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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

X

NELSON QUINTANILLA, ALEJANDRO AMAYA, ALEX AMIR
AREVALO MAYNOR FAJARDO, WALTER GARCIA, JOSE L.
MARTINEZ, PRACELIS MENDEZ, OSMAR Q. PAGOADA,
JAVIER QUINTANILLA, EDWIN RIVERA, CARLOS
ESCALANTE, KEVIN GALEANO, LERLY NOE RODRIGUEZ,
JOSE VEGA CASTILL, JUAN QUINTEROS, and MARCUS
TULIO PEREZ,

Plaintiffs,

-against-

SUFFOLK PAVING CORP., SUFFOLK ASPHALT CORP.,
LOUIS VECCHIA, CHRISTOPHER VECCHIA, HELENE
VECCHIA, and JOHN DOES 1-5,

Defendants.

X

October 17, 2011
10:10 a.m.

4875 Sunrise Highway
Bohemia, New York

EXAMINATION BEFORE TRIAL of MARCUS TULIO
PEREZ, one of the Plaintiffs herein, taken by
the Defendant, pursuant to Order, held at the
above-mentioned time and place, before MICHELLE
ADAMO, a Notary Public of the State of New York.

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A P P E A R A N C E S :

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(NOT PRESENT)

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ZABELL & ASSOCIATES, P.C.
Attorneys for Defendants
4875 Sunrise Highway
Bohemia, New York 11716

BY: SAUL ZABELL, ESQ.

ALSO PRESENT:

Margarita Arias - Spanish interpreter

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S T I P U L A T I O N S

IT IS HEREBY STIPULATED AND AGREED by
and between the attorneys for the respective
parties herein that the filing, sealing and
certification of the within deposition be
waived.

That such deposition may be signed
and sworn to before any officer authorized to
administer an oath with the same force and
effect as if signed and sworn to before the
officer before whom said deposition was taken.

IT IS FURTHER STIPULATED AND AGREED that
all objections except as to form are reserved
for the time of trial.

1

2

M A R G A R I T A A R I A S, the Spanish

3

Interpreter herein, was duly sworn to

4

interpret the questions from English into

5

Spanish and the answers from Spanish into

6

English to the best of her ability:

7

M A R C U S T U L I O P E R E Z, the witness

8

herein, having been first duly

9

sworn by a Notary Public in and of

10

the State of New York, was examined

11

and testified as follows:

12

EXAMINATION BY

13

MR. ZABELL:

14

Q Please state your name for the

15

record.

16

A Marcus Tulio Perez.

17

Q State your address for the record,

18

please.

19

A

20

21

Q How do I know you're Marcus Tulio

22

Perez?

23

A I came here, because I was asked

24

to come here. I had an appointment.

25

Q Who asked you to come here?

1 M. Tulio Perez

2 A Mendez.

3 Q Mendez asked you? Is he the
4 ringleader?

5 MR. MCNAMARA: Objection.

6 A He called me, I don't know
7 anything.

8 Q He's the one that organized
9 everyone?

10 A I don't know anything. He only
11 called me.

12 Q You don't know anything about
13 anything?

14 MR. MCNAMARA: Objection.

15 A Well, he only called my -- I
16 already answered you, didn't I?

17 Q Don't be a wiseguy, I'll throw you
18 right out of here. Do you understand me?

19 A Yes.

20 Q Do you understand me?

21 MR. MCNAMARA: Objection.

22 A Yes.

23 Q Do you have any identification
24 papers on you?

25 A I don't have any.

1 M. Tulio Perez

2 Q Do you have any at home?

3 A No.

4 Q Where do you live?

5 A Wyandanch.

6 Q How did you get here today?

7 A A friend brought me.

8 Q Is your friend still around?

9 A No.

10 Q Because you're going to have to go
11 back to Wyandanch and get those papers.

12 Do you understand me?

13 A Yes.

14 Q Do you want me to do that now or
15 during lunch?

16 A I don't have a car.

17 Q So call your friend and ask when
18 your friend can pick you up. Maybe your abogado
19 can take you.

20 A He's working.

21 Q You could take a cab. It doesn't
22 matter to me how you get your papers.

23 Do you have a wallet?

24 A No.

25 Q Do you have any pay stubs?

1 M. Tulio Perez

2 A No.

3 Q [REDACTED]

4 [REDACTED]

5 MR. MCNAMARA: Objection.

6 Q Answer the question.

7 A (No verbal response.)

8 Q Answer the question.

9 MR. MCNAMARA: You can answer the
10 question. I have objected to the
11 question already.

12 Q Answer the question.

13 A Which question?

14 Q [REDACTED]

15 [REDACTED]

16 A [REDACTED]

17 Q [REDACTED] [REDACTED]

18 [REDACTED] [REDACTED]

19 [REDACTED]

20 [REDACTED] [REDACTED]

21 [REDACTED]

22 MR. MCNAMARA: I'm instructing the
23 witness not to answer this question
24 pursuant to the protective order.

25 I believe that the nature of the

1 M. Tulio Perez

2 question, as well as the answer that
3 you're seeking, relates to the witness'
4 immigration status.

5 MR. ZABELL: What immigration
6 status?

7 MR. MCNAMARA: I'm instructing the
8 witness not to answer the question.

9 Q What immigration status?

10 MR. MCNAMARA: Counsel, move on.

11 MR. ZABELL: What immigration
12 status are you referring to? Are you
13 indicating to me that this individual is
14 not authorized to reside in the United
15 States? Is that what you're indicating
16 to me?

17 MR. MCNAMARA: No, Counsel. I'm
18 referring to --

19 MR. ZABELL: You are advising me
20 that he is authorized to reside in the
21 United States, is that what you're
22 saying?

23 MR. MCNAMARA: I'm not saying
24 either way. I am saying that I am
25 directing the witness not to answer

1 M. Tulio Perez

2 pursuant to the protective order.

3 Q What is your full name?

4 A Marcus Tulio Perez.

5 Q Well, Marcus Tulio Perez, are you
6 known by any other names?

7 A No, not that I know of.

8 Q Not that you know of?

9 MR. MCNAMARA: Objection.

10 A No.

11 Q Where are you from, Marcus Tulio
12 Perez?

13 A Honduras.

14 Q Do you have a passport?

15 A At home.

16 Q You're going to go get that
17 passport over lunch, correct?

18 MR. MCNAMARA: Objection.

19 A I can't go, because I don't have a
20 car.

21 Q Your lawyer will drive you. He's
22 a nice guy. Look at him. What is the matter?
23 Are you afraid to look at him?

24 MR. MCNAMARA: You can look at me,
25 it's fine.

1 M. Tulio Perez

2 A He's cute.

3 Q Did you just say he's cute?

4 A Yes.

5 Q Did you ever meet him before?

6 MR. MCNAMARA: Objection.

7 Q Answer the question with your
8 words.

9 A No.

10 Q You never met him before?

11 MR. MCNAMARA: Objection.

12 A No.

13 Q Did he introduce himself to you?

14 A No.

15 Q How do you know he's your lawyer?

16 MR. MCNAMARA: Objection.

17 A I didn't know anything.

18 Q Do you know anything at all today?

19 A No.

20 Q Do you know why you're here today?

21 A It's possible.

22 Q What's possible?

23 A It's about the salaries, isn't it?

24 Q No.

25 MR. MCNAMARA: Objection.

1 M. Tulio Perez

2 Q Do you have any idea why you're
3 here today?

4 A They only asked me to come here.

5 Q So you have no idea why you're
6 here today, correct?

7 MR. MCNAMARA: Objection.

8 Q Yes or no?

9 A I know why I'm here.

10 Q Why are you here?

11 A Because of the lawsuit.

12 Q What lawsuit?

13 A Well, you know.

14 Q No, I don't know.

15 MR. MCNAMARA: Objection.

16 Q Tell me about it.

17 A (No verbal response.)

18 Q Tell me about it.

19 MR. MCNAMARA: Objection.

20 You have to answer Mr. Zabell's

21 question, even though it's the same

22 question.

23 Q Go ahead, answer it. I told you,
24 he told you, she told you. Do you want somebody
25 else to tell you?

1 M. Tulio Perez

2 MR. MCNAMARA: Objection.

3 Q Get that stupid grin off your face
4 and answer the question.

5 MR. MCNAMARA: Objection, Counsel,
6 stop.

7 Q Let's go. Answer the question.

8 MR. MCNAMARA: Objection.

9 A (No verbal response.)

10 MR. ZABELL: Let the record
11 reflect that, with a grin on his face,
12 the deponent is shaking his head no, as
13 if he's refusing to answer the question.

14 MR. MCNAMARA: Objection.

15 MR. ZABELL: Is that a fair
16 representation?

17 MR. MCNAMARA: I didn't notice
18 whether or not the witness was grinning,
19 so I don't know if that's a fair and
20 accurate representation.

21 MR. ZABELL: Did you see the side
22 to side shaking of the head?

23 MR. MCNAMARA: I did see the side
24 to side shaking of the head. But
25 again --

1 M. Tulio Perez

2 MR. ZABELL: Look at him.

3 MR. MCNAMARA: I am going to
4 instruct Mr. Perez again. Can you please
5 answer the question verbally?

6 A Which question?

7 Q The one that is pending before
8 you.

9 MR. MCNAMARA: Counsel, can you
10 repeat the question?

11 MR. ZABELL: For whose sake, yours
12 or his?

13 MR. MCNAMARA: The witness.

14 MR. ZABELL: He knows the
15 question. If it was for your sake, I
16 would ask that it be read back.

17 MR. MCNAMARA: It's not for me.

18 MR. ZABELL: Then, there is no
19 need.

20 Q Answer the question, Marco Tulio
21 Perez.

22 MR. MCNAMARA: Objection.

23 MR. ZABELL: To his name?

24 MR. MCNAMARA: You keep
25 pronouncing it wrong.

1 M. Tulio Perez

2 MR. ZABELL: Marco?

3 MR. MCNAMARA: Marcus.

4 Q Answer the question, Marcus Tulio
5 Perez.

6 A I answered you. I said that I was
7 asked to come here.

8 Q Do you know why you were asked to
9 come here?

10 A I don't know, an interrogatory
11 (sic).

12 Q Do you know if you're involved in
13 a lawsuit?

14 A Yes.

15 Q What lawsuit are you involved in?

16 A Suffolk Paving.

17 Q What is the nature of that
18 lawsuit?

19 A About the salary that they didn't
20 pay us.

21 Q They didn't pay you a salary?

22 MR. MCNAMARA: Objection.

23 A Not overtime hours.

24 Q [REDACTED]

25 [REDACTED]?

1 M. Tulio Perez

2 A Why do you want to know that?

3 Q Just answer the question.

4 A [REDACTED]

5 Q [REDACTED]

6 [REDACTED]

7 MR. MCNAMARA: Objection. I am
8 instructing the witness not to answer,
9 pursuant to the protective order.

10 Q Do you still work for Suffolk
11 Paving?

12 A No.

13 Q When were you terminated from
14 Suffolk Paving?

15 MR. MCNAMARA: Objection.

16 A 2009.

17 Q You believe you were terminated
18 from Suffolk Paving, right?

19 MR. MCNAMARA: Objection.

20 A I think, maybe.

21 Q You were terminated because you
22 filed a lawsuit against Suffolk Paving; is that
23 correct?

24 MR. MCNAMARA: Objection.

25 A It's possible.

1 M. Tulio Perez

2 Q You believed that you were
3 retaliated against for filing your lawsuit,
4 correct?

5 MR. MCNAMARA: Objection.

6 Q Yes or no?

7 A It's possible.

8 Q So your answer is yes, correct?

9 MR. MCNAMARA: Objection.

10 A Possibly.

11 Q That's part of this lawsuit too,
12 correct?

13 MR. MCNAMARA: Objection.

14 A What's the question?

15 Q That retaliation claim is part of
16 this lawsuit, correct?

17 A Yes.

18 Q [REDACTED]

19 [REDACTED]

20 MR. MCNAMARA: Objection.

21 D [REDACTED]

22 Q [REDACTED]

23 MR. MCNAMARA: No, he did not say
24 that.

25 MR. ZABELL: No, he just said that

1 M. Tulio Perez

2 it's part of this lawsuit. He is seeking
3 it. You do not have the ability to
4 testify for him. If you want, you should
5 have submitted a stipulation withdrawing
6 his claims of retaliation, this
7 individual does it.

8 Now we get to ask him each and
9 every question about his immigration
10 status and his ability to work in the
11 United States.

12 MR. MCNAMARA: He does not have a
13 retaliation claim and you know that.

14 MR. ZABELL: No, I don't know
15 that. You haven't withdrawn your
16 retaliation claim.

17 MR. MCNAMARA: We will stipulate
18 on the record that he doesn't have --

19 MR. ZABELL: I am not willing to
20 accept that stipulation on the record.
21 If you want to put something in writing,
22 I'll wait while you put it together in
23 writing.

24 I see that you're using your
25 phone. Do you need a few minutes alone?

1 M. Tulio Perez

2 MR. MCNAMARA: No, I don't need a
3 few minutes alone. Do you want to take a
4 break?

5 MR. ZABELL: I am asking you, I'm
6 trying to be courteous to you, Counselor.

7 MR. MCNAMARA: I don't need a few
8 minutes alone. I'm just going to write
9 an e-mail.

10 MR. ZABELL: I'm going to continue
11 to ask this individual about his
12 immigration status.

13 MR. MCNAMARA: I'm going to
14 instruct him not to answer.

15 MR. ZABELL: We're going to call
16 the Judge.

17 MR. MCNAMARA: That's fine.

18 MR. ZABELL: I'm complying with
19 the Judge's order. He has testified that
20 retaliation is part of this lawsuit, and
21 therefore, I get to ask him questions
22 about his immigration status.

23 However that affects him, it's
24 between you; you're advising him. If
25 that results in something happening to

1 M. Tulio Perez

2 him, that's on your shoulders.

3 MR. MCNAMARA: Counsel, I would
4 like to take a break and speak off the
5 record.

6 MR. ZABELL: Okay.

7 (Whereupon, a discussion was held
8 off the record.)

9 Q Marcus Tulio Perez.

10 MR. MCNAMARA: Perez.

11 MR. ZABELL: Whatever. Does it
12 really matter? Do I need to pronounce
13 guilty just to convey it?

14 MR. MCNAMARA: Can we move on,
15 Counsel?

16 MR. ZABELL: Sure.

17 Q You understand that you're still
18 under oath, right?

19 A Yes.

20 Q Do you know what that means?

21 A (No verbal response.)

22 Q Let's go.

23 A Yes, I have to say the truth.

24 Q You understand that there is a
25 penalty if you don't tell the truth, correct?

1 M. Tulio Perez

2 MR. MCNAMARA: Objection.

3 Mr. Perez, you do have to answer
4 the question.

5 A I think so.

6 Q Do you know what that penalty is?

7 MR. MCNAMARA: Objection.

8 Mr. Perez, you're allowed to say I
9 don't know or I'm not sure.

10 A I don't know what that is.

11 Q Why wouldn't you tell me that,
12 instead of sitting there with that silly smirk
13 on your face, kind of like the one that you're
14 giving me now?

15 MR. MCNAMARA: Objection.

16 Q Answer the question.

17 A (No verbal response.)

18 Q Come on.

19 A The question about the smirk? I
20 don't have anything to answer about that.

21 Q Are you trying to be smart?

22 A No.

23 Q You understand that you're at a
24 deposition today, do you not?

25 A Yes.

1 M. Tulio Perez

2 Q You're required to answer my
3 questions.

4 Do you understand that?

5 A Yes.

6 Q Your lawyer told you that you have
7 to answer my questions, right?

8 A I'm going to answer whatever you
9 ask.

10 Q But your lawyer told you that you
11 have to answer my questions, correct?

12 A What question? You're not asking
13 me anything.

14 Q Listen. Don't try to be stupid.
15 Your lawyer told you that you have to answer all
16 of my questions, correct?

17 MR. MCNAMARA: Objection.

18 Q Yes or no?

19 A (No verbal response.)

20 MR. MCNAMARA: Mr. Perez, please
21 answer the question.

22 A Yes.

23 Q Why are you waiting so long to
24 answer my questions?

25 A Because you're always asking me

1 M. Tulio Perez

2 the same thing.

3 Q That's not true. Did somebody
4 tell you to say that?

5 MR. MCNAMARA: Objection.

6 A No.

7 Q So you're already starting off by
8 lying?

9 MR. MCNAMARA: Objection.

10 Q You know that, right?

11 MR. MCNAMARA: Objection.

12 A I'm not lying.

13 Q Sure, you are. Look at your
14 lawyer's face. He will tell you that you're
15 lying. Look, the cute one.

16 MR. MCNAMARA: Objection.

17 Q He looks a little like Chaz Bono,
18 right?

19 MR. MCNAMARA: Objection.

20 Q You're not smarter than me.
21 You're not smarter than your attorney.

22 MR. MCNAMARA: Objection.

23 Q It's your job to answer the
24 questions that I ask you.

25 Do you understand that?

1 M. Tulio Perez

2 A Yes.

3 Q If you do not answer a question
4 that I ask you, it will be assumed that you are
5 trying to hide something.

6 Do you understand that?

7 A Yes.

8 Q If you do not understand a
9 question that I ask you, you have an obligation
10 to tell me that you do not understand that
11 question.

12 Do you understand that?

13 A Yes.

14 Q If you provide an answer to a
15 question that I ask you, it will be assumed that
16 you understood that question.

17 Do you understand that?

18 A Yes.

19 Q Are you married?

20 A Yes.

21 Q To whom?

22 A With my wife.

23 Q What is her name or his name?

24 A Her, because I am a man.

25 Q This is New York. You can be a

1 M. Tulio Perez

2 man and you can be a woman and there is same sex
3 marriage that is appropriate.

4 What is your spouse's name,
5 whether it be a man or woman?

6 A Tatiana.

7 Q What?

8 A Aracena.

9 Q Is that her last name?

10 A Yes.

11 Q Do you have a marriage
12 certificate?

13 A No, we only live together.

14 Q So you're not married to her?

15 A No.

16 Q So you lied to me, correct?

17 MR. MCNAMARA: Objection.

18 A I take it as being married.

19 Q I'm sure you do. It's very
20 convenient to you. Do you live together?

21 A Yes.

22 Q Where do you live?

23 A The address is there (indicating).

24 Q Where do you live?

25 A In Wyandanch.

1 M. Tulio Perez

2 Q I want the full address.

3 A [REDACTED]

4 Q If I wanted to come meet you at
5 your house and knock on your door, would I go to

6 [REDACTED]

7 MR. MCNAMARA: Objection.

8 A Yes.

9 Q Is there an apartment there?

10 A House.

11 Q Do you own the house?

12 A No.

13 Q Do you share the house with
14 anyone?

15 A I just rent.

16 Q Nobody else rents the house with
17 you?

18 A I only have my room.

19 Q So you just rent a room?

20 A Yes.

21 Q Who else lives in that house?

22 A Only her and me, my girlfriend.

23 Q Your girlfriend, not the woman
24 that you call your wife?

25 MR. MCNAMARA: Objection.

1 M. Tulio Perez

2 A Yes, that is her, Tatiana.

3 Q You live in that room with your
4 wife and your girlfriend?

5 MR. MCNAMARA: Objection.

6 A No.

7 Q Where does your girlfriend live?

8 A It's the same one.

9 MR. MCNAMARA: Objection.

10 Q The other one?

11 MR. MCNAMARA: Objection.

12 A I only have one.

13 MR. ZABELL: There you go, now you
14 know he's lying.

15 MR. MCNAMARA: Objection.

16 Counsel, he's not lying.

17 Q Show your lawyer your face.

18 MR. MCNAMARA: It's been clear on
19 the record.

20 Q What's your girlfriend's name?

21 A Tatiana Aracena.

22 Q No, the other one?

23 MR. MCNAMARA: Objection.

24 A It's the same one, I only have
25 one.

1 M. Tulio Perez

2 Q Why?

3 A Because I only should have one.

4 Q Because of that haircut?

5 MR. MCNAMARA: Objection.

6 A Which haircut?

7 Q You don't understand what I'm
8 saying, do you?

9 A I don't understand.

10 Q You have an obligation to tell me
11 when you don't understand.

12 A I already said that I don't
13 understand.

14 Q Do you have any children?

15 A Two.

16 Q You don't live with your children?

17 A Only with one.

18 Q Why didn't you tell me that you
19 live with one of your children in your room in
20 Wyandanch?

21 A You didn't ask me.

22 Q I asked you who you lived with and
23 you said your girlfriend.

24 A I don't know, maybe I forgot.

25 Q You forgot or you lied?

1 M. Tulio Perez

2 MR. MCNAMARA: Objection.

3 A I forgot.

4 Q How old is your child that lives
5 with you?

6 A Eight months.

7 Q Boy or girl?

8 A Girl.

9 Q You have another child?

10 A Yes.

11 Q Who doesn't live with you?

12 A No.

13 Q Why?

14 A He lives with his mother.

15 Q Who is his mother?

16 A Maria Rosabell Martinez.

17 Q Was she your wife, too?

18 A No, we only lived together.

19 MR. MCNAMARA: Objection.

20 Q How old is that child?

21 A Five years old.

22 Q What is that child's name?

23 A Cherlin.

24 Q What is your eight-month-old
25 girl's name?

1 M. Tulio Perez

2 A Marilyn.

3 Q Do you have any other children,
4 other than Marilyn and Cherlin?

5 A No.

6 Q How old are you?

7 A Twenty-seven.

8 Q Do you provide for your children?

9 A Yes.

10 Q How much money a week do you
11 provide for Cherlin?

12 A \$110.

13 Q How much money do you provide a
14 month for Marilyn?

15 A Well, she lives with me.

16 Q How did you agree on \$110 a week
17 for Cherlin?

18 A I give her a check.

19 Q How did you agree on the amount of
20 that check?

21 A We came to an agreement.

22 Q Who is "we"?

23 A With Maria.

24 Q Maria Rosabell Martinez?

25 A Yes.

1 M. Tulio Perez

2 Q Why are you no longer with Maria
3 Rosabell Martinez?

4 A Well, we separated.

5 Q Did you separate because you
6 cheated on her?

7 MR. MCNAMARA: Objection.

8 A She left.

9 Q Why did she leave?

10 A We didn't get along.

11 Q Did you not get along because you
12 cheated on her?

13 A Not necessarily. There are always
14 problems with a relationship.

15 Q I understand, but by the smile on
16 your face, you indicate that you had relations
17 with another woman while you were still with
18 Maria Rosabell Martinez.

19 MR. MCNAMARA: Objection.

20 Q Correct?

21 A False.

22 Q Nobody believes you here.

23 A Well...

24 Q Well, what? Because you're not
25 telling the truth?

1 M. Tulio Perez

2 A I only say the truth.

3 Q Where does Maria live?

4 A Deer Park.

5 Q Where in Deer Park?

6 A She just moved and I don't have
7 the exact address.

8 Q Can you find out the exact
9 address?

10 MR. MCNAMARA: Objection.

11 A You need an address?

12 Q Yes.

13 MR. MCNAMARA: Objection.

14 A If you want, I can find out.

15 Q Go ahead, find out.

16 (Whereupon, a discussion was held
17 off the record.)

18 A No answer.

19 Q Really? Do you want to give me
20 the number and I'll call?

21 A Okay.

22 Q What's her number?

23 A [REDACTED].

24 Q That's her telephone number?

25 A Yes.

1 M. Tulio Perez

2 Q For Maria Rosabell Martinez?

3 A Yes.

4 Q Could she not be picking up the
5 phone just because she knows it's you calling?

6 MR. MCNAMARA: Objection.

7 A Maybe she's working.

8 Q Where does she work?

9 A I don't know.

10 MR. MCNAMARA: Are we on the
11 record right now?

12 THE COURT REPORTER: Yes.

13 MR. ZABELL: What's wrong,
14 Counselor?

15 MR. MCNAMARA: We went from not
16 being on the record to being on the
17 record.

18 MR. ZABELL: That's what happens
19 when you start talking at a deposition.
20 When you stop talking, you're off the
21 record, as well.

22 MR. MCNAMARA: We can move on.

23 MR. ZABELL: We can?

24 MR. MCNAMARA: I'll allow it.

25 MR. ZABELL: Do me a favor, before

1 M. Tulio Perez

2 we move on, why don't you tell this guy
3 to stop playing games?

4 MR. MCNAMARA: I have been very
5 clear.

6 Q Turn around in your chair like a
7 big boy and look at your cute lawyer.

8 MR. MCNAMARA: Counsel, stop
9 bossing him around.

10 MR. ZABELL: Tell him to tell the
11 truth.

12 MR. MCNAMARA: I already told him
13 to tell the truth.

14 MR ZABELL: Tell him again,
15 apparently not, because look at him.

16 MR. MCNAMARA: You already told
17 him, I told him, he knows. Can we please
18 move on?

19 Q Did you prepare for this
20 deposition in any way?

21 A No.

22 Q Did you meet with your lawyers at
23 any time before this deposition?

24 MR. MCNAMARA: Objection.

25 A I saw him yesterday.

1 M. Tulio Perez

2 Q Who?

3 A My attorney.

4 Q The one right next to you?

5 A No.

6 Q Some other attorney of yours?

7 MR. MCNAMARA: Objection.

8 A The other attorney.

9 Q What's his name?

10 A I don't really know his name well.

11 Q Why? You don't have a good

12 memory?

13 MR. MCNAMARA: Objection.

14 A No, because the name is a little

15 unusual.

16 Q What is unusual about it?

17 A I don't know his name.

18 Q What does he look like?

19 MR. MCNAMARA: Objection.

20 A If I tell you, you're not going to

21 know.

22 Q How do you know?

23 A Well, he's small, I don't know.

24 Q Where is he small?

25 A His size.

1 M. Tulio Perez

2 Q He's small in size?

3 A Yes.

4 Q Is he proportionate, or is there
5 parts of him that is smaller than others?

6 MR. MCNAMARA: Objection.

7 A I think you understand what I am
8 saying.

9 Q If I did, I wouldn't be asking you
10 any more questions on it, I assure you.

11 Does his head match his body?

12 A I only told you that he is small,
13 he's not big, he's medium stature.

14 Q Medium or small?

15 A Medium.

16 Q Does he have hair, or is he bald
17 like me?

18 A He has hair.

19 Q What color is his hair?

20 A Brown.

21 Q Did he talk to you?

22 A Yes, he spoke to me.

23 Q In what language?

24 A In Spanish.

25 Q Is his name Ian?

1 M. Tulio Perez

2 him, and then I'm going to follow it up
3 with, was anybody else present?

4 All things that are going to
5 obliterate any attorney/client privilege,
6 quite possibly.

7 Q Where did you meet with him?

8 A If he says that I can talk.

9 Q He is not saying that, answer the
10 question.

11 A Nassau County.

12 Q Where in Nassau County?

13 A On Jericho.

14 Q At a jail?

15 MR. MCNAMARA: Objection.

16 A Jericho.

17 Q Where in Jericho?

18 A In a coffee shop.

19 Q Starbucks?

20 A Yes.

21 Q That's some office he has.

22 MR. MCNAMARA: Objection.

23 A I don't know anything.

24 Q We know you don't know anything.

25 It's clear to us.

1 M. Tulio Perez

2 Who else was present when you met
3 with him?

4 MR. MCNAMARA: Objection.

5 A There were only two of us.

6 Q Who was there?

7 A Edwin.

8 Q Edwin Rivera?

9 A Yes.

10 Q Who else?

11 MR. MCNAMARA: Objection.

12 A That's it.

13 Q Was there the staff of Starbucks
14 around you?

15 A No.

16 Q Nobody was around you?

17 MR. MCNAMARA: Objection.

18 A No.

19 Q Was it possible for anybody to
20 overhear your conversation?

21 MR. MCNAMARA: Counsel, I'm not
22 permitting these questions.

23 MR. ZABELL: Yes, you are.

24 MR. MCNAMARA: No.

25 A I was not looking at anything.

1 M. Tulio Perez

2 Q But it's possible for people to
3 have overheard you?

4 MR. MCNAMARA: Objection.

5 A I don't know anything.

6 Q Did you review any documents with
7 Ian?

8 MR. MCNAMARA: Objection.

9 A No.

10 Q You just went over the story and
11 that is it, correct?

12 MR. MCNAMARA: Objection.

13 A Just the story.

14 Q You went over the story with him,
15 right?

16 A Yes. I had to see some papers.

17 Q What papers did you see, because I
18 just asked you about them and you lied and said
19 that you didn't review any papers.

20 A I didn't lie to you.

21 Q You did lie.

22 And what papers, liar?

23 MR. MCNAMARA: Objection.

24 Q Liar, what papers?

25 MR. MCNAMARA: Objection, Counsel,

1 M. Tulio Perez

2 stop.

3 Q What you're doing now is thinking
4 about how to compound the lie. Watch, you'll
5 see.

6 MR. MCNAMARA: Objection.

7 Q You've got that grin again.

8 MR. ZABELL: You can tell he's
9 about to lie.

10 Q Go ahead, say it. We all know
11 it's coming.

12 A (No verbal response.)

13 Q You know we're waiting for you,
14 right?

15 A (No verbal response.)

16 Q You're just going to sit there and
17 look foolish, right?

18 MR. MCNAMARA: Objection.

19 A Well, I saw him because they
20 translated a paper into Spanish for me.

21 Q What paper?

22 MR. MCNAMARA: Objection.

23 A About the lawsuit.

24 Q What paper?

25 MR. MCNAMARA: Objection.

1 M. Tulio Perez

2 A Where all of the names of the
3 plaintiffs are.

4 Q What did that document say?

5 MR. MCNAMARA: Objection.

6 A It's all in Spanish.

7 Q What did it say in Spanish?

8 A I didn't memorize it.

9 Q Tell me what it says, in general.

10 MR. MCNAMARA: Objection.

11 Counsel, what he is referring to --

12 MR. ZABELL: It's a document that
13 he's reviewed in preparation for this
14 deposition.

15 MR. MCNAMARA: We would be happy
16 to provide it.

17 MR. ZABELL: I'm not interested in
18 your testimony. I'm interested in his
19 testimony.

20 Q What did it say, smiley?

21 A I don't recall.

22 Q It's a document that you read
23 yesterday and you don't remember already? Is
24 your memory that bad?

25 A (No verbal response.)

1 M. Tulio Perez

2 Q Yes or no? Is your memory that
3 bad?

4 MR. MCNAMARA: Objection.
5 Counsel.

6 Q Yes or no?

7 A (No verbal response.)

8 Q Is your memory that bad?

9 A I don't think so.

10 Q Clearly it is. You read a
11 document yesterday and you don't remember what
12 it says today?

13 MR. ZABELL: Counsel, do you have
14 a copy of that document?

15 MR. MCNAMARA: It's the complaint,
16 and you have a copy of it, as well.

17 MR. ZABELL: Not in Spanish.

18 MR. MCNAMARA: I will have
19 Mr. Wallace provide you a copy.

20 MR. ZABELL: Really? His
21 follow-up is not all that good.

22 MR. MCNAMARA: I'll see to it that
23 he follows up.

24 MR. ZABELL: You'll make sure that
25 happens?

1 M. Tulio Perez

2 MR. MCNAMARA: Yes.

3 MR. ZABELL: I trust you, Counsel.

4 Q [REDACTED]

5 [REDACTED] [REDACTED] [REDACTED]

6 [REDACTED] [REDACTED] [REDACTED]

7 MR. MCNAMARA: Objection. He
8 doesn't have to answer those questions.

9 MR. ZABELL: Sure, he does.

10 MR. MCNAMARA: No, he doesn't.
11 It's regarding his immigration status.
12 It's covered by the protective order.

13 MR. ZABELL: [REDACTED]

14 [REDACTED] [REDACTED] [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 MR. MCNAMARA: I believe that it
18 does, and I'm instructing him not to
19 answer.

20 MR. ZABELL: Why do you believe it
21 does? Give me a good faith basis.

22 MR. MCNAMARA: A good faith basis?

23 MR. ZABELL: Yes.

24 MR. MCNAMARA: [REDACTED]

25 [REDACTED]

1 M. Tulio Perez

2

3

--

4

MR. ZABELL:

5

6

7

That's why I'm asking the
8 question, Counselor.

9

MR. MCNAMARA: I'm instructing him

10

not to answer.

11

Q

12

13

MR. MCNAMARA: I'm instructing him

14

not to answer.

15

Q

16

17

MR. MCNAMARA: Do not answer the

18

question.

19

MR. ZABELL: Why are you afraid to

20

have him answer?

21

A He's saying not to answer.

22

MR. MCNAMARA: Because there is a

23

protective order that is supposed to

24

limit these exact type of questions.

25

MR. ZABELL: No, I'm not allowed

1 M. Tulio Perez

2 to ask him about his immigration status.

3 MR. MCNAMARA: What's the point to
4 what you're asking?

5 MR. ZABELL: [REDACTED] [REDACTED]

6 [REDACTED] [REDACTED] [REDACTED]

7 [REDACTED]

8 MR. MCNAMARA: He told you when he
9 came here.

10 MR. ZABELL: Yes, in 2001. I
11 don't know when he came here in 2001.

12 MR. MCNAMARA: So ask when he came
13 to New York.

14 Q When did you come to New York?

15 A In 2001.

16 Q [REDACTED]

17 MR. MCNAMARA: Objection.

18 Do not answer the question.

19 Q [REDACTED]

20 MR. MCNAMARA: Objection.

21 Do not answer the question.

22 A He's saying that I can't answer.

23 Q Sure, you can answer.

24 MR. MCNAMARA: No, I am not
25 allowing it.

1 M. Tulio Perez

2 Q [REDACTED]

3 MR. MCNAMARA: Do not answer the
4 question.

5 Q [REDACTED]

6 It's not exactly known as the land of the free.

7 A (No verbal response.)

8 Q Come on, answer the question.

9 A (No verbal response.)

10 Q Are you going to answer, or are
11 you going to just look silly?

12 A He said that I can't answer the
13 question.

14 Q Don't be a moron.

15 MR. MCNAMARA: Counsel, stop
16 calling my client insulting names.

17 Q I'm going to continue to ask these
18 questions.

19 MR. MCNAMARA: I instructed him
20 not to answer earlier questions.

21 MR. ZABELL: Stop it.

22 Q Answer the question.

23 A (No verbal response.)

24 Q Are you going to answer, or are
25 you going to sit there and look foolish?

1 M. Tulio Perez

2 MR. MCNAMARA: Counsel, ask the
3 question again.

4 MR. ZABELL: No.

5 Q Nothing? You're just going to
6 look stupid.

7 MR. MCNAMARA: Objection. Stop
8 calling him names.

9 MR. ZABELL: He's sitting there
10 with a grin on his face, not answering
11 any questions.

12 Q Do you know what color shirt
13 you're wearing?

14 MR. MCNAMARA: Objection.

15 Mr. Perez, please answer the
16 question.

17 Q Do you know what day of the week
18 it is?

19 A It's the 17th, Monday.

20 Q Do you know what color shirt
21 you're wearing?

22 MR. MCNAMARA: Objection.

23 A Red.

24 Q Do you know what color your
25 attorney is?

1 M. Tulio Perez

2 MR. MCNAMARA: Objection.

3 A White.

4 Q Do you know what my name is?

5 A No.

6 Q How many fingers am I holding up?

7 MR. MCNAMARA: Let the record show

8 Mr. Zabell is holding up two fingers.

9 Q Mr. Perez and only Mr. Perez.

10 A Two.

11 MR. ZABELL: Let the record

12 reflect that Mr. Perez is accurate.

13 Q See? You can answer questions,

14 right?

15 A Not the ones that he tells me not

16 to answer.

17 Q Stop saying that. You're not a
18 lawyer. In this room, your role is simply to
19 respond to my questions. If you can't do that,
20 we will throw you out and bring you back when
21 you can.

22 Do you understand?

23 MR. MCNAMARA: Objection.

24 Q Do you understand?

25 A I understand.

1 M. Tulio Perez

2 Q Are you sure?

3 MR. MCNAMARA: Objection.

4 A I'm sure.

5 Q When you sue somebody, you subject
6 yourself to a deposition. This is my
7 deposition.

8 Do you understand?

9 A I understand.

10 Q When did you first start working
11 in the United States?

12 A In 2001.

13 Q Where did you start working?

14 A Cleaning.

15 Q What was the name of the company
16 that you started working for?

17 A CVC, I was helping my sister.

18 Q Did she pay you?

19 A Yes, she paid me.

20 Q How much did she pay you?

21 A She didn't pay me. She only gave
22 me food.

23 Q I asked you if she paid you, you
24 said yes. Now you're lying and saying that she
25 didn't pay you, and she only gave you food.

1 M. Tulio Perez

2 A That was as if she paid me,
3 because she gave me -- because she would give me
4 food.

5 Q For how long did you work for CVC?

6 A About six months.

7 Q So you worked for six months and
8 didn't get paid, other than eating?

9 MR. MCNAMARA: Objection.

10 Q Correct?

11 A Correct.

12 Q Where did you work after CVC?

13 A It's been a long time, I have to
14 remember.

15 Q Yes, you do. But you knew that
16 before you came here, correct?

17 A (No verbal response.)

18 Q Come on, Marcus Tulio Perez, if
19 that's your real name.

20 A I think it was in a paper factory.

21 Q What was the name of that paper
22 factory?

23 A I think it was called Global
24 Tissue, or something like that.

25 Q Is that right around the block

1 M. Tulio Perez

2 from here?

3 A It's on Nicolls Road.

4 Q Nicolls or Lakeland?

5 MR. MCNAMARA: Objection.

6 A Nearby, 27, there is a factory
7 there.

8 Q For how long did you work at
9 Global Tissue?

10 A Three months.

11 Q What did you do there?

12 A I would pack.

13 Q Did you get paid in cash or check?

14 A Check.

15 Q [REDACTED]

[REDACTED]

[REDACTED]

18 MR. MCNAMARA: Objection.

19 A Can I answer that?

20 Q Yes, you can answer that. We
21 already know. Just answer the question.

22 A What do you know?

23 Q We know, leave it at that.

24 MR. MCNAMARA: Objection.

25 Q Answer the question.

1 M. Tulio Perez

2 A (No verbal response.)

3 MR. ZABELL: Patrick, tell him to
4 answer the question.

5 MR. MCNAMARA: You can answer the
6 question, yes or no.

7 A Can you repeat the question?

8 Q [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 A [REDACTED]

13 Q [REDACTED]

14 A I don't know what you're asking me
15 about.

16 Q [REDACTED]

17 [REDACTED]

18 MR. MCNAMARA: Objection.

19 A [REDACTED]

20 Q [REDACTED]

21 [REDACTED]

22 MR. MCNAMARA: I would like all
23 questions and answers arising from and
24 regarding Social Security numbers, as
25 well as tax records and any reporting to

1 M. Tulio Perez

2 the IRS to be marked as confidential,
3 pursuant to the confidentiality
4 agreement.

5 MR. ZABELL: I object to the
6 designation. Counsel, there is a
7 stipulation in place. I'm now providing
8 you notice on the record and in writing
9 that I object to your designation. There
10 is a formula and a format in which you
11 can test your designation in the
12 appropriateness of it before the Court.

13 MR. MCNAMARA: While I am
14 disputing that this should constitute as
15 notice in writing, I understand that
16 you're objecting to the designation.

17 MR. ZABELL: You never objected
18 that this constitutes as notice before,
19 why now?

20 MR. MCNAMARA: Because I thought
21 about it and I don't think that it
22 constitutes proper written notice.

23 MR. ZABELL: Really? Because you
24 just said to me before when we were in my
25 office, you told me that when you give me

1 M. Tulio Perez

2 notice on the record, that is good for
3 writing. Then, you tried to submit that
4 as an argument in favor of the
5 stipulation that you wanted before.

6 I'm surprised that you're now
7 using the same argument as both a sword
8 and a shield. It seems a bit
9 hypocritical, Counsel.

10 MR. MCNAMARA: You're entitled to
11 your opinion.

12 MR. ZABELL: I didn't think you
13 wanted to be that type of person, I was
14 wrong.

15 MR. MCNAMARA: I'm glad we
16 resolved that.

17 Q Answer the question, buddy. Don't
18 look foolish, just answer the question.

19 A You haven't asked me anything
20 about Suffolk Paving. That's why I came here.

21 Q You came here because I demanded
22 that you come here.

23 Do you understand that? You're
24 here today for my use all day.

25 MR. MCNAMARA: Objection.

1 M. Tulio Perez

2 Q Do you understand that?

3 MR. MCNAMARA: Objection.

4 Q Do you understand that?

5 A Yes.

6 Q Don't try to be smart, just answer
7 the questions that I ask you. You will look
8 less foolish that way.

9 MR. MCNAMARA: Objection.

10 Q Am I clear?

11 MR. MCNAMARA: Objection.

12 A (No verbal response.)

13 Q Am I clear?

14 MR. MCNAMARA: Objection.

15 A (No verbal response.)

16 Q Am I clear?

17 MR. MCNAMARA: Objection.

18 Counsel, please lower your voice.

19 Mr. Perez, answer the question.

20 Q Am I clear?

21 A It's clear.

22 Q So you're just going to answer my
23 questions now, right?

24 MR. MCNAMARA: Objection.

25 Q Right?

1 M. Tulio Perez

2 A (No verbal response.)

3 Q Right?

4 A (No verbal response.)

5 MR. MCNAMARA: Mr. Perez, please
6 answer the question with spoken
7 responses.

8 Q You're going to be well-behaved
9 and you're going to provide answers to all of
10 the questions that I ask.

11 Do you understand?

12 MR. MCNAMARA: Objection.

13 Q Do you understand?

14 MR. MCNAMARA: Objection.

15 Q Do you understand?

16 MR. MCNAMARA: Objection.

17 A That's fine, ask the questions.

18 Q Be a good boy.

19 [REDACTED]

20 [REDACTED]

21 A [REDACTED]

22 MR. MCNAMARA: Objection.

23 Q [REDACTED]

24 [REDACTED]

25 [REDACTED]

1 M. Tulio Perez

2 MR. MCNAMARA: Do not answer the
3 question. I am not permitting him to
4 answer these questions. I believe it's
5 covered under the protective order.

6 MR. ZABELL: You're absolutely
7 incorrect.

8 MR. MCNAMARA: I am instructing
9 the witness not to answer.

10 MR. ZABELL: We're going to save
11 it up, because we're clearly calling the
12 Judge.

13 And I'm telling you now, I
14 mentioned it before, and I know you get
15 upset, I'm going to move for sanctions.
16 You're wasting my time. You are
17 absolutely wasting my time.

18 We have done a dozen other
19 depositions. [REDACTED]

20 [REDACTED]

21 [REDACTED] [REDACTED] [REDACTED]

22 [REDACTED] [REDACTED]

23 You realized that there was no
24 basis for advising him not to answer, and
25 now you're going to try that? It does

1 M. Tulio Perez

2 not work. That's exactly what's going to
3 get you sanctioned.

4 Q Where did you work after Global
5 Tissue?

6 MR. ZABELL: Don't try me,
7 Patrick, don't try me.

8 Q Where did you work after that?
9 Come on. Can you hear me?

10 A Fasco.

11 Q What years did you work for Fasco?

12 A 2003, 2004.

13 Q Did you get paid in check or cash
14 at Fasco?

15 A Check.

16 Q [REDACTED]
[REDACTED]
[REDACTED]

19 MR. MCNAMARA: Objection.

20 A (No verbal response.)

21 Q Are you going to answer the
22 question, or are you just going to look at your
23 knees?

24 MR. MCNAMARA: Objection.

25 Q Are you going to answer the

1 M. Tulio Perez

2 question?

3 A (No verbal response.)

4 Q Huh, guilty?

5 MR. MCNAMARA: Objection.

6 Q Huh? They didn't tell you the
7 deposition was going to be like this, did they?

8 MR. MCNAMARA: Objection.

9 Q They didn't tell you, huh? They
10 didn't tell you we're going to use the
11 information that comes out of here to impeach
12 every word you said?

13 MR. MCNAMARA: Objection.

14 Q They didn't tell you that if we
15 found out that you did something unlawful, we're
16 going to follow up on it, like it's our
17 responsibility to do?

18 They didn't tell you that if we
19 catch you lying, we're going to seek to have you
20 prosecuted?

21 MR. MCNAMARA: Objection.

22 Q They didn't tell you any of that,
23 did they? They didn't even tell you that
24 Patrick was going to be your attorney, did they?

25 MR. MCNAMARA: Objection.

1 M. Tulio Perez

2 Q Did they?

3 MR. MCNAMARA: Objection.

4 A (No verbal response.)

5 Q They didn't tell you all about me,
6 did they? Did they?

7 A (No verbal response.)

8 Q They didn't tell you any of that,
9 did they?

10 MR. MCNAMARA: Objection.

11 Q You're not going to answer the
12 questions, are you? You're just going to sit
13 there and look stupid?

14 MR. MCNAMARA: Objection.

15 Q Right? That is how you want to
16 look, right?

17 MR. MCNAMARA: Objection.

18 Q That is the kind of father you
19 want to be to your two kids?

20 MR. MCNAMARA: Objection.

21 Q That is the kind of man you want
22 to be? One that doesn't even look me in the
23 eye, afraid to answer?

24 A I'm not afraid to answer.

25 Q Clearly, you are. How about you

1 M. Tulio Perez

2 answer some of the questions that I just asked
3 you, unless you're too scared?

4 A Because you're asking me the same
5 thing.

6 Q No, I just asked you a series of
7 different questions.

8 They told you how to act at a
9 deposition, didn't they?

10 A I don't know anything.

11 Q You don't know anything. Are you
12 a moron? You don't know anything?

13 MR. MCNAMARA: Objection.

14 A Because you're disrespecting me.

15 Q Answer my questions and I won't
16 disrespect you. If you don't answer my
17 questions, you can expect more treatment like
18 this.

19 I treat you like you act and right
20 now, you're not acting like much of a man,
21 you're not even acting much like a boy.

22 MR. MCNAMARA: Objection.

23 Counsel, stop.

24 Q Do you know that? No eye contact,
25 you're looking at your shoes.

1 M. Tulio Perez

2 A I haven't looked at my shoes even
3 once.

4 Q Sure, you have. You're not
5 looking at me. Are you afraid?

6 A I'm not afraid.

7 Q Then, why won't you open your
8 mouth and give an answer? Huh?

9 MR. MCNAMARA: Objection.

10 Q You think if you stare off in
11 other directions, I'm just going to move on?

12 A (No verbal response.)

13 Q What's the matter, are you afraid
14 to look at me?

15 A No.

16 Q Answer the questions.

17 A (No verbal response.)

18 Q Hey, answer the questions.

19 A (No verbal response.)

20 Q Look. You can't look, can you?
21 You're ashamed?

22 A (No verbal response.)

23 MR. MCNAMARA: Objection, stop it.

24 Q What are you so ashamed about?

25 A (No verbal response.)

1 M. Tulio Perez

2 Q What are you ashamed about?

3 A (No verbal response.)

4 Q What are you so ashamed about?

5 A I'm not ashamed.

6 Q Clearly, you are, if you're afraid
7 to answer my questions. You're a little boy,
8 you don't want to answer questions?

9 MR. MCNAMARA: Objection.

10 Q Do you need to go to the bathroom?
11 Do you want some milk? Want a little cookie or
12 something? Nothing? Just like a petulant,
13 little baby.

14 Do you want to cry? Do you need
15 some tissues? Nothing? Right, just a blank
16 stare like you have been eating lead chips all
17 day, right?

18 MR. ZABELL: Patrick, I don't know
19 what the problem is with your client.

20 MR. MCNAMARA: You haven't been
21 asking him any questions. You've been
22 insulting him.

23 MR. ZABELL: I have been asking
24 him questions all morning.

25 MR. MCNAMARA: He's been answering

1 M. Tulio Perez

2 your questions.

3 MR. ZABELL: No, he hasn't. I
4 just asked him dozens of questions and he
5 didn't answer them. Why don't you take
6 him outside and talk to him?

7 MR. MCNAMARA: He knows he has to
8 answer you.

9 MR. ZABELL: Maybe you need to
10 change him or something. Explain to him
11 that he has to answer my questions.

12 MR. MCNAMARA: He already knows he
13 has to answer your questions.

14 MR. ZABELL: Clearly, he doesn't.

15 MR. MCNAMARA: You have no desire
16 to hear his answers.

17 MR. ZABELL: He should try.

18 MR. MCNAMARA: What was your last
19 question, Counsel?

20 MR. ZABELL: I had dozens of last
21 questions that he refused to answer.

22 MR. MCNAMARA: What was the last
23 question that had any purpose of actually
24 discerning the answer?

25 MR. ZABELL: All of my questions

1 M. Tulio Perez

2 are posed to discern the answer.

3 Mr. Perez, go outside of the room.

4 Get out.

5 MR. MCNAMARA: I think we're done
6 here.

7 MR. ZABELL: I'm not done here.

8 MR. MCNAMARA: I think we might
9 be.

10 MR. ZABELL: Go talk to him and
11 get him to start answering some of these
12 questions.

13 (Whereupon, a recess was taken
14 from 11:46 a.m. to 12:10 p.m.)

15 Q You worked for Fasco from 2003 to
16 2004, correct?

17 A Correct.

18 Q They paid you in check, correct?

19 A Yes, true.

20 Q You're able to read your check,
21 correct?

22 A Correct.

23 Q You deposited your checks at a
24 bank account, correct?

25 A I would cash it.

1 M. Tulio Perez

2 Q Do you have a bank account?

3 A Yes, I do have one.

4 Q Where is your bank account?

5 A Bank of America.

6 Q What town?

7 A What town? What do you mean?

8 Q What town is the branch that you
9 use?

10 A Copiague, Deer Park, usually.

11 Q Where did you open up a bank
12 account?

13 A Copiague.

14 Q [REDACTED]

[REDACTED]

[REDACTED]

17 MR. MCNAMARA: Objection.

18 A [REDACTED]

19 Q [REDACTED]

20 MR. MCNAMARA: Objection.

21 I'm directing the witness not to
22 answer.

23 MR. ZABELL: This has nothing to
24 do with his immigration status. He said
25 he gave him a number. I'm asking what

1 M. Tulio Perez

2 that number is.

3 MR. MCNAMARA: I think that
4 question is delving into his immigration
5 status.

6 Q [REDACTED]

7 [REDACTED]

8 MR. MCNAMARA: Mr. Perez, you can
9 answer that question.

10 A [REDACTED]

11 [REDACTED]

12 Q [REDACTED]

13 [REDACTED]

14 MR. MCNAMARA: Objection.

15 Q [REDACTED]

16 A [REDACTED]

17 Q [REDACTED]

18 [REDACTED]

19 MR. MCNAMARA: Objection.

20 A [REDACTED].

21 Q [REDACTED]

22 A [REDACTED]

23 Q [REDACTED]

24 [REDACTED]

25 MR. MCNAMARA: Objection.

1 M. Tulio Perez

2 A [REDACTED] [REDACTED]

3 [REDACTED] [REDACTED]

4 Q [REDACTED]

5 [REDACTED]

6 [REDACTED] [REDACTED]

7 Q [REDACTED]

8 [REDACTED] [REDACTED] [REDACTED]

9 [REDACTED] [REDACTED]

10 [REDACTED] [REDACTED] [REDACTED]

11 [REDACTED]

12 [REDACTED] [REDACTED] [REDACTED]

13 [REDACTED] [REDACTED] [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED] [REDACTED]

17 [REDACTED]

18 [REDACTED] [REDACTED]

19 [REDACTED] --

20 MR. ZABELL: No, understand this,
21 the only thing that you can advise him to
22 do is to take the Fifth Amendment.

23 MR. MCNAMARA: That is not true.

24 MR. ZABELL: That is absolutely
25 true.

1 M. Tulio Perez

2 MR. MCNAMARA: That is not true,
3 and you know that is not true.

4 MR. ZABELL: All right.

5 MR. MCNAMARA: I can advise him
6 not to answer, pursuant to the protective
7 order.

8 MR. ZABELL: We will get it from
9 him, you know that.

10 MR. MCNAMARA: Do your worst.

11 Q [REDACTED] [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 MR. MCNAMARA: Objection.

15 Q [REDACTED] [REDACTED].

16 MR. MCNAMARA: Do not answer the
17 question. I think that question is
18 inappropriate and is covered under the
19 protective order.

20 MR. ZABELL: Counsel, I saw you
21 reading the protective order before. I'm
22 not asking him about his immigration
23 status, and you know what? You're really
24 starting to try my patience.

25 I've warned you before, you're

1 M. Tulio Perez

2 going to lead this into a direction it
3 does not need to go. I am entitled to
4 ask these questions, and I'm entitled to
5 get an answer.

6 I swear to you, I'm going to get
7 the Judge on the phone now and I'm going
8 to move for sanctions. I'm sick of this.

9 MR. MCNAMARA: Counsel, stop
10 threatening me.

11 MR. ZABELL: No.

12 MR. MCNAMARA: What questions do
13 you think are appropriate to ask?

14 Q [REDACTED]
[REDACTED]
[REDACTED]

17 MR. MCNAMARA: Mr. Perez, do not
18 answer that question.

19 Q [REDACTED]
[REDACTED] [REDACTED]

21 MR. MCNAMARA: Objection.

22 MR. ZABELL: Tell him to answer
23 that question now.

24 MR. MCNAMARA: You can answer that
25 question.

1

2

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11

12

Q Mr. Perez, is it just the question
that you don't want to answer, that you're
refusing to answer, or are you taking your time
to think through your answer?

16

A

18

Q Yes, you have to answer it. If
it's not your intention to answer the question,
just say, I'm not answering that question, so
we're not going to sit here and wait.

19

20

21

22

A Okay, then, I'm not going to
answer.

23

24

Q Why are you not going to answer?

25

A Because you told me.

1 M. Tulio Perez

2 Q That is not what I'm saying. I'm
3 tired of sitting here and looking at you with a
4 smirk on your face while you look down at the
5 floor and your shoes and not answering the
6 questions.

7 When I ask you a question, you
8 need to answer the question. If you're refusing
9 to answer the question, then you need to let me
10 know that you're refusing, so I can call up the
11 Court and advise the Court and have you
12 sanctioned for it.

13 MR. MCNAMARA: Objection.

14 Q There will be penalties for your
15 failure to behave in an appropriate manner.

16 But rather than waste everybody's
17 time, I need to know if you can't answer the
18 question, because you're incapable of cobbling
19 together a response, or you're refusing to
20 answer the question, because you feel that
21 you're somehow entitled to dictate to us, the
22 actual attorneys who are trained to do this,
23 what we can and cannot ask. Am I clear?

24 A (No verbal response.)

25 Q Am I clear?

1 M. Tulio Perez

2 A That's him.

3 Q You think that's funny?

4 A Him?

5 Q No, the question?

6 A No.

7 Q Then, why are you smiling?

8 A Well, I can smile, can't I?

9 Q I would rather you not.

10 A Okay.

11 Q How long did you meet with Ian?

12 MR. MCNAMARA: Objection.

13 A An hour.

14 Q Where did you meet with Ian
15 yesterday?

16 MR. MCNAMARA: You don't have to
17 answer that.

18 MR. ZABELL: It's an appropriate
19 question, and I'm going to ask him.

20 MR. MCNAMARA: Don't answer the
21 question.

22 Q Where did you meet with him?

23 MR. ZABELL: It does not reveal
24 attorney/client confidential information.

25 I am asking him where he met with

1 M. Tulio Perez

2 whether or not to agree. I'm trying to
3 help you, but you're refusing to accept
4 my assistance.

5 MR. MCNAMARA: You helping me is
6 you walking all over me. That's what you
7 think anyway.

8 MR. ZABELL: You want to fight
9 back, go ahead, I'll keep quiet while you
10 fight back.

11 MR. MCNAMARA: I'm not trying to
12 fight back. I think my objection was
13 appropriate. And I think I was
14 appropriate --

15 MR. ZABELL: Do you want me to go
16 over the order with you? You were
17 reading it just before.

18 Pull it out, I'll show you. That
19 is the only restrictions, "For these
20 reasons, defendant will not be permitted
21 to inquire into the immigrations status
22 of plaintiffs who only seek recovery of
23 back pay."

24 MR. MCNAMARA: I'm aware.

25 MR. ZABELL: I'm allowed to ask

M. Tulio Perez

MR. MCNAMARA: I believe --

MR. ZABELL: Patrick, I know you believe in it for this one, but for all the others that we did, you didn't seem to care.

Year	Number of cases	Rate per 100,000
1990	1,200	1.2
1991	1,300	1.3
1992	1,400	1.4
1993	1,500	1.5
1994	1,600	1.6
1995	1,700	1.7
1996	1,800	1.8
1997	1,900	1.9
1998	2,000	2.0
1999	2,100	2.1
2000	2,200	2.2
2001	2,300	2.3
2002	2,400	2.4
2003	2,500	2.5
2004	2,600	2.6
2005	2,700	2.7
2006	2,800	2.8
2007	2,900	2.9
2008	3,000	3.0
2009	3,100	3.1
2010	3,200	3.2
2011	3,300	3.3
2012	3,400	3.4
2013	3,500	3.5
2014	3,600	3.6
2015	3,700	3.7
2016	3,800	3.8
2017	3,900	3.9
2018	4,000	4.0
2019	4,100	4.1
2020	4,200	4.2

[illegible]

[REDACTED] We

know that, I know that, I'm not asking

him about that. [REDACTED]

Country	Year	Value
China	2000	1.00
China	2001	1.00
China	2002	1.00
China	2003	1.00
China	2004	1.00
China	2005	1.00
China	2006	1.00
China	2007	1.00
China	2008	1.00
China	2009	1.00
China	2010	1.00
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China	2107	1.00
China	2108	1.00
China	2109	1.00
China	2110	1.00
China	2111	1.00
China	2112	1.00
China	2113	1.00
China	2114	1.00
China	2115	1.00
China	2116	1.00
China	2117	1.00
China	2118	1.00
China		

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2005	2,700	2.7
2006	2,800	2.8
2007	2,900	2.9
2008	3,000	3.0
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2017	3,900	3.9
2018	4,000	4.0
2019	4,100	4.1
2020	4,200	4.2

Country	Year	Value
China	2000	1.00
China	2001	1.00
China	2002	1.00
China	2003	1.00
China	2004	1.00
China	2005	1.00
China	2006	1.00
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China	2110	1.00
China	2111	1.00
China	2112	1.00
China	2113	1.00
China	2114	1.00
China	2115	1.00
China	2116	1.00
China	2117	1.00
China	2118	1.00
China		

1 M. Tulio Perez

2 ultimately at trial, in order to obtain
3 funds that they did not work for. That
4 is the basic premise of this lawsuit.

5 So I am asking him impeaching
6 questions just so I can impeach him and
7 credibility issues are always admissible.

8 MR. MCNAMARA: I agree with that.

9 MR. ZABELL: So either you can
10 capitulate, allow these questions to be
11 asked, or I have to proceed down this
12 very deadly line with you with Judge
13 Tomlinson, or any other Magistrate.

14 If you want, I'll give you an
15 opportunity to think about it. You don't
16 have to answer me on the fly, because I
17 don't want you, again, accusing me of
18 hijacking you or bullying you. Am I
19 clear?

20 MR. MCNAMARA: You have been very
21 clear.

22 (Whereupon, a recess was taken
23 from 12:26 p.m. to 1:12 p.m.)

24 Q Are you ready now?

25 A I'm ready.

1 M. Tulio Perez

2 Q You're going to answer my
3 questions, right?

4 A It depends on the questions.

5 Q You know you don't have the right
6 to make that determination. I'm going to ask
7 those questions, and if your attorney doesn't
8 put his hand on your shoulder and say, "don't
9 answer that question," you have an obligation to
10 answer that question.

11 Do you understand that?

12 A That's fine.

13 MR. ZABELL: Patrick, you're okay
14 with that little hand gesture?

15 MR. MCNAMARA: I'll be clear of
16 when the witness doesn't have to answer
17 the question.

18 MR. ZABELL: Okay, very good.

19 Q [REDACTED]

[REDACTED] [REDACTED]

[REDACTED]

22 MR. MCNAMARA: Objection.

23 Q Yes or no?

24 A I think so.

25 Q Do you remember what that number

1 M. Tulio Perez

2 was?

3 A No.

4 Q Do you remember it to be

5 [REDACTED]?

6 A [REDACTED]

7 [REDACTED]
8 Q Have you ever used any other
9 Social Security numbers?

10 A No.

11 Q Do you use that number to file
12 your income tax returns?

13 A Yes.

14 Q Did you ever use any other Social
15 Security number at Suffolk Paving?

16 A Only that one.

17 Q [REDACTED]

18 [REDACTED]
19 MR. MCNAMARA: Objection.

20 Q You can answer. Are you going to
21 answer?

22 MR. MCNAMARA: Mr. Perez, you can
23 answer this question.

24 A [REDACTED]

25 Q [REDACTED]

1 M. Tulio Perez

2 [REDACTED]?

3 A [REDACTED]

4 Q How much did you make when you
5 worked at Fasco per hour?

6 A Approximately, about \$10.

7 Q \$10 an hour?

8 A Yes.

9 Q You worked there in all of 2003
10 and all of 2004?

11 A Half of -- I started in 2002.

12 Q Please tell me what years you
13 worked at Fasco.

14 A 2002, 2003 and in the middle, I
15 went to Suffolk Paving.

16 Q The middle of 2003?

17 A 2004, about June or less.

18 Q What did you do at Suffolk Paving
19 in 2004?

20 A I raked and I did the screw on the
21 machine.

22 Q How much did you get paid an hour
23 in 2004 at Suffolk Paving?

24 A \$21.90.

25 Q That's a big difference from \$10

1 M. Tulio Perez

2 an hour?

3 A Yes. But when they paid me \$10 in
4 Fasco, it was because I didn't know the work.

5 Q Would you have rather worked for
6 \$10 an hour or \$21.90 an hour?

7 A \$21.90.

8 Q Who hired you at Suffolk Paving?

9 A Louis Vecchia.

10 Q The man to my left?

11 A Yes.

12 Q Was he a good boss?

13 A He's good.

14 Q Treated you fair, right?

15 MR. MCNAMARA: Objection.

16 A Yeah.

17 Q You got paid \$21.90 for every hour
18 you worked, correct?

19 MR. MCNAMARA: Objection.

20 A The forty hours that I worked.

21 Q Did you ever get paid in cash at
22 Suffolk Paving?

23 A One time.

24 Q How much did you receive one time?

25 A \$500.

1 M. Tulio Perez

2 Q Do you know why you got paid \$500
3 in cash one time?

4 A For the overtime.

5 Q When you worked overtime, you got
6 it paid in cash, correct?

7 A No, only one time he paid me.

8 Q Every check you received from
9 Suffolk Paving listed the hours that you worked
10 on it, correct?

11 MR. MCNAMARA: Objection.

12 A They were only paying me the
13 forty. It was rare that they paid more hours.

14 Q Did you ever get a paycheck that
15 indicated that you got paid overtime?

16 A What do you mean?

17 Q Did you ever look at your
18 paychecks?

19 A Yes.

20 Q Were you able to read them?

21 A Yes.

22 Q Did those paychecks ever indicate
23 all of the hours that you worked?

24 A Yes. The forty hours were always
25 there.

1 M. Tulio Perez

2 Q Did those paychecks ever reflect
3 more than forty hours of work?

4 A Rarely.

5 Q Did they ever; yes or no?

6 MR. MCNAMARA: Objection.

7 A Sometimes. What do you mean?

8 Q Did they ever; yes or no?

9 MR. MCNAMARA: Objection.

10 A Did they show what?

11 Q Overtime.

12 A Yes, sometimes.

13 Q But every week, they showed the
14 regular hours that you worked, correct?

15 MR. MCNAMARA: Objection.

16 A Yes.

17 Q You always got your checks every
18 week that you worked, correct?

19 A Correct.

20 Q You were always able to cash them,
21 correct?

22 A Correct.

23 Q Or deposit them at the Bank of
24 America?

25 A I would cash them.

1 M. Tulio Perez

2 Q That is the same as all of your
3 other co-workers, correct?

4 A I don't know. I only know about
5 myself.

6 Q Where did you work in 2005?

7 A Suffolk Paving.

8 Q Where did you work in 2006?

9 A From 2004 to 2009, I worked for
10 Suffolk.

11 Q Suffolk what?

12 A Paving.

13 Q You only worked for Suffolk
14 Paving, correct?

15 A Correct.

16 Q You got paid for every week that
17 you worked for Suffolk Paving, correct?

18 MR. MCNAMARA: Objection.

19 A The forty hours, yes.

20 Q Every week you worked, you got
21 paid forty hours?

22 A Like I already told you, sometimes
23 they would pay me overtime.

24 Q Did you ever get paid less than
25 forty hours in a week?

1 M. Tulio Perez

2 A If I worked less days, yes.

3 Q That was common, correct?

4 A What do you mean by "common"?

5 Q You didn't work forty hours every
6 week, did you?

7 A I always worked them, unless it
8 rained, but it was rare.

9 Q Rain is rare in the summer?

10 A A couple of days.

11 Q Did you work throughout the entire
12 year for Suffolk Paving?

13 A The complete year?

14 Q Yes.

15 A The whole time that I was there.

16 Q From January to December?

17 A Yes, I worked through the end of
18 the season.

19 Q What's the season? Tell me when
20 it starts and when it ends.

21 A It ended December 23rd.

22 Q When did it start?

23 A Approximately, the last weeks of
24 March, the latest would be the first week in
25 April.

1 M. Tulio Perez

2 Q At the end of the season come
3 October, the work would slow down, correct?

4 A Sometimes, yes.

5 Q In the beginning of the season in
6 March or April, work was slow, correct?

7 A No, we always worked.

8 Q You know your co-workers say
9 something very different?

10 A Well, I don't know, sometimes
11 there were different groups.

12 Q When did you stop working at
13 Suffolk Paving?

14 MR. MCNAMARA: Objection.

15 A I finished the season in 2009.

16 Q Why did you stop working in 2009?

17 A Well, the season ended, and they
18 didn't call me again. Chris called me, but I
19 was already working somewhere else.

20 Q Chris was trying to get you to
21 come back to work, but you were already working
22 somewhere else?

23 A They didn't call me again.

24 Q You just said Chris called you.

25 A Yes, he called me, but I couldn't

1 M. Tulio Perez

2 leave where I was.

3 Q They did call you and you refused
4 to go back to work?

5 A They called me, but it was too
6 late.

7 MR. MCNAMARA: Objection.

8 Q After the season in 2009, who did
9 you go to work for?

10 A For Fasco.

11 Q So you went back to Fasco,
12 correct?

13 A Correct.

14 Q Are you in the union?

15 A No.

16 Q Why aren't you in the union?

17 MR. MCNAMARA: Objection.

18 A I don't have a union.

19 Q Why?

20 A I don't have a union.

21 Q Why?

22 A I don't know.

23 Q How much are you getting paid at
24 Fasco now?

25 A \$16.50.

1 M. Tulio Perez

2 Q An hour?

3 A Correct.

4 Q Do you do any prevailing wage work
5 at Fasco?

6 A Yes.

7 Q How much do you get paid an hour
8 for prevailing wage work?

9 A \$57 and some change.

10 Q For all of your hours?

11 A Each hour.

12 Q You have been working at Fasco
13 from 2009 on?

14 A Correct.

15 Q Do you think that you were fired
16 from Suffolk Paving because you're Hispanic?

17 MR. MCNAMARA: Objection.

18 A I don't know.

19 Q I'm not asking if you know. I'm
20 asking if that's what you think.

21 MR. MCNAMARA: Objection.

22 A I don't know.

23 Q Why do you think you were fired
24 from Suffolk Paving?

25 A I didn't say they fired me, only

1 M. Tulio Perez

2 that they didn't call me.

3 Q They didn't fire you?

4 A But that is the way that I think.

5 Q You think that they fired you?

6 A Correct.

7 Q Even though Chris called you to
8 come back to work, but you were working
9 somewhere else?

10 A Yes, but that was to cover up.

11 Q Cover up. When did he call you?

12 A About July of 2009, he called me.

13 Q Are you sure?

14 A That is an approximation.

15 Q Because you worked in July 2009
16 for Suffolk Paving, did you not?

17 A Excuse me, I'm confused. 2010, he
18 called me.

19 Q When you said "July 2009," you
20 were lying to me?

21 A I was not lying, I was confused.

22 MR. MCNAMARA: Objection.

23 Q Who confused you?

24 A Well, I was confused about the
25 year.

1 M. Tulio Perez

2 Q But I asked if you were sure and
3 you said yes.

4 A Well, one can make mistakes.

5 Q Not at my depositions. Want to
6 have some of that water now?

7 A No thanks.

8 Q In 2004, you testified that you
9 were making \$21.90 an hour at Suffolk Paving; is
10 that correct?

11 A Correct.

12 Q Is that the only rate that you
13 received?

14 A Sometimes when I worked prevailing
15 wage.

16 Q Sometimes when you worked
17 prevailing wage, what?

18 A They paid me about \$55.

19 Q So every time you worked
20 prevailing wage jobs, you got a prevailing wage
21 rate?

22 A Correct.

23 Q Every time?

24 A Always.

25 Q You told your lawyers that, right?

1 M. Tulio Perez

2 A Correct.

3 MR. MCNAMARA: Objection.

4 Q They're filing a claim saying that
5 when you worked prevailing wage jobs, you didn't
6 get paid prevailing wage rates.

7 A Who said?

8 Q Ian, Lauren. Did you know that?

9 A No, I didn't know.

10 Q You read the complaint yesterday,
11 correct?

12 A But here, I'm talking about
13 overtime hours.

14 Q No. You don't get to talk about
15 anything you want here. Here you just get to
16 answer my questions.

17 Do you understand that?

18 A I understand.

19 Q In the lawsuit, they're saying
20 that you didn't get paid prevailing wage rates.
21 Are you aware of that?

22 A The lawsuit doesn't say that.

23 Q Yes, it does.

24 A Well, they didn't pay me overtime
25 hours.

1 M. Tulio Perez

2 Q Did they make a mistake in the
3 complaint?

4 A I don't know.

5 Q Don't you think you should know if
6 your name is on the complaint?

7 MR. MCNAMARA: Objection.

8 A Well...

9 Q Are you going to answer that
10 question?

11 A Yes, I am going to answer.

12 Q Go ahead. Answer.

13 A Could you ask me the question
14 again?

15 Q Don't you think you have an
16 obligation to know what your lawyers are
17 claiming on your behalf?

18 MR. MCNAMARA: Objection.

19 A Well, the lawsuit says that part
20 of the hours and the overtime was not paid.

21 Q Part of what hours?

22 A For example, if we worked -- if we
23 did a State job, sometimes we would get out at
24 7:00 or 8:00, and it was a prevailing wage job,
25 and they only paid us eight hours.

1 M. Tulio Perez

2 Q That is the best example that you
3 have?

4 A Well, that is what I have.

5 Q Don't you think it's your
6 responsibility to know what the complaint says?

7 MR. MCNAMARA: Objection.

8 A Yes, it is my responsibility.

9 Q Can you read in English?

10 A Yes, I can.

11 Q Can you read in Spanish?

12 A Yes.

13 Q Can you speak English?

14 A Yes.

15 Q Can you speak Spanish?

16 A Yes.

17 Q Have you ever gone to school?

18 A Yes, I've gone.

19 Q Up to what grade have you gone?

20 A High school.

21 Q Did you graduate high school?

22 A Yes, in my country.

23 Q In Honduras?

24 A Yes.

25 Q How old were you when you stopped

1 M. Tulio Perez

2 going to school in Honduras?

3 A Eighteen.

4 Q So you're a smart guy, right?

5 A I think I am.

6 Q You knew when you were being
7 treated fairly and when you were being treated
8 unfairly?

9 A I know.

10 Q And you always knew, correct?

11 A Yes.

12 Q Louis Vecchia treated you fairly,
13 correct?

14 A He would always treat me well.
15 Sometimes he would get angry, but he never said
16 anything to me.

17 Q He would get angry at you?

18 A Maybe, but he never said anything.

19 Q That was nice of him.

20 When you worked for Suffolk

21 Paving, did you ever do any side jobs?

22 A No.

23 Q You never worked on the weekends?

24 A No.

25 Q You only worked Monday through

1 M. Tulio Perez

2 Friday for Suffolk Paving?

3 A Some Saturdays.

4 Q How many?

5 A About four or five per year.

6 Q Do you have a diary of those days?

7 A No.

8 Q When we were out in the hallway, I
9 saw a little booklet in your pocket.

10 What is that booklet?

11 A Nothing.

12 Q No, I need you to tell me what it
13 is.

14 A It's nothing.

15 Q Can I see it, please?

16 A Yes.

17 Q Who is Louis E. Fridella?

18 A Who?

19 Q You don't know who that is?

20 A I write my things there.

21 Q What things?

22 A Well, like, it's like a little
23 notebook.

24 Q Are these people who owe you
25 money?

1 M. Tulio Perez

2 A Some people, yes.

3 Q Do you have anything in here about
4 the time that you worked at Suffolk Paving?

5 A No.

6 Q Here it shows the week/hours that
7 you worked?

8 A Yes, but those are Fasco hours.

9 Q Did you keep a book like this when
10 you worked for Suffolk Paving?

11 A No.

12 Q When did you start keeping a book
13 like this?

14 A When I started working for Fasco.

15 Q You never kept any sort of hours
16 when you were working at Suffolk Paving?

17 MR. MCNAMARA: Objection.

18 A Because they would write down the
19 hours.

20 Q They would write down the hours?

21 A Yes.

22 Q Who would write down those hours?

23 A Carlos and Renato.

24 Q Renato Guerra?

25 A Fajardo.

1 M. Tulio Perez

2 Q Do you know if Renato Guerra is
3 the same person as Maynard Fajardo?

4 A Well, I only know Renato, Maynor
5 is the same one.

6 Q Do you know how much Renato
7 borrowed from Suffolk Paving, how much money?

8 A I don't know.

9 Q Did you ever borrow money from
10 Suffolk Paving?

11 A Never.

12 Q Did you ever ask?

13 A No.

14 Q Because they paid you well,
15 correct?

16 A Well, I would always receive my
17 forty hours.

18 Q Whether or not you worked
19 forty hours, correct?

20 A No, if I didn't work, then, no.

21 Q But you just said that you always
22 got your forty hours.

23 A Normally.

24 Q Sometimes you got paid more than
25 forty hours, correct?

1 M. Tulio Perez

2 A Sometimes, yes.

3 Q But you always got your forty
4 hours, correct?

5 A Correct.

6 Q Did you ever receive unemployment
7 benefits?

8 A No.

9 Q Why not?

10 A I don't know.

11 Q Did you ever apply for
12 unemployment benefits?

13 A No.

14 Q Why not?

15 A Because I didn't.

16 Q How did you get to work at Suffolk
17 Paving?

18 A A cousin of mine would take me.

19 Q What is that cousin's name?

20 A Ronald.

21 Q Ronald what?

22 A Reyes.

23 Q Does Ronald Reyes work for Suffolk
24 Paving?

25 A Yes.

1 M. Tulio Perez

2 Q Is he still working there?

3 A No.

4 Q Why is he not working there?

5 A He ended up not having a car.

6 Q Is he suing Suffolk Paving?

7 A No.

8 Q Why not?

9 A I don't know.

10 Q Because he believes in telling the
11 truth, correct?

12 MR. MCNAMARA: Objection.

13 A I don't know, I didn't know.

14 Q Your cousin is an honest man, is
15 he not?

16 A I don't know. I just worry about
17 myself.

18 Q Don't you think that is a little
19 bit selfish?

20 MR. MCNAMARA: Objection.

21 A I don't know why he started.

22 Q You don't know why who started?

23 A I don't know why he's not suing,
24 only he knows.

25 Q Maybe because he knows he was paid

1 M. Tulio Perez

2 Mr. McNamara [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 LAW SECRETARY: The Judge actually
7 is not in today.

8 MR. ZABELL: Is there another
9 Magistrate that we could impose upon?
10 Otherwise, we're just going to end up
11 having to reschedule this deposition, and
12 I know we're on a pretty tight timeline.

13 LAW SECRETARY: I can call around,
14 and -- are you on a lunch break right
15 now?

16 MR. ZABELL: No, there will be no
17 lunch break today.

18 LAW SECRETARY: Can I call you
19 back?

20 MR. ZABELL: Absolutely.

21 (Whereupon, the call was
22 concluded.)

23 MR. MCNAMARA: Okay, you're just
24 trying to be a bully. I am not going to
25 allow my client to get stepped all over

1 M. Tulio Perez

2 correctly, right?

3 A No, because he didn't want to lose
4 his job.

5 Q But he doesn't work there, so what
6 job would he be worried about losing?

7 A The one that he had.

8 Q The money that you earned from
9 Suffolk Paving helped provide for your two
10 babies, correct?

11 A One of them.

12 Q It helped provide for your two
13 girlfriends, correct?

14 MR. MCNAMARA: Objection.

15 A Which two girlfriends?

16 Q You had more than two?

17 A I only had one at that time, the
18 mother of my first child.

19 Q Right. But if you recall that you
20 lost the mother of your first child because you
21 were fooling around with another woman.

22 MR. MCNAMARA: Objection.

23 A I answered that at the beginning,
24 I don't know why you're asking me again.

25 Q Just to keep you honest.

1 M. Tulio Perez

2 MR. MCNAMARA: Objection.

3 A I'm telling the truth.

4 Q You testified that the mother of
5 your first child, Maria, left you; Maria left
6 you with your daughter Cherlin?

7 A No, she took her.

8 Q That is what I meant. She left
9 you because she was unhappy with you?

10 A No, we had problems, the same way
11 all couples do.

12 Q You had problems because you were
13 cheating on her with another woman, correct?

14 MR. MCNAMARA: Objection.

15 A No.

16 Q You were cheating on her with
17 another man?

18 A No, I like women.

19 Q Why did she leave you?

20 A The same thing, we had problems,
21 we didn't get along.

22 Q Problems because you cheated on
23 her?

24 MR. MCNAMARA: Objection.

25 A Couples problems.

1 M. Tulio Perez

2 Q Problems because she cheated on
3 you?

4 A I don't know.

5 Q Sure, you do.

6 A I don't know.

7 Q You don't have to hide it from us.
8 We're all friends here.

9 MR. MCNAMARA: Objection.

10 A Well, they're personal things.

11 Q I know, but you're at a
12 deposition, and I need to understand them.

13 A I don't know why she left. I only
14 know that we had problems and we didn't get
15 along.

16 Q Did you ever lie to her?

17 A No.

18 Q Not even a little white lie?

19 A No.

20 Q Did you ever tell her that you
21 were working late when you were going out with
22 your friends?

23 A I always got out late. I told her
24 the truth.

25 Q What time would you get out of

1 M. Tulio Perez

2 work when you worked at Suffolk Paving?

3 A The earliest because -- 5:30,
4 sometimes we got out at 4:30.

5 Q So you would get out of work
6 between 4:30 and 5:30?

7 A Normally, it was 5:30 at the
8 earliest.

9 Q What time would you go into work?

10 A 6:30.

11 Q That's when you would go into the
12 yard?

13 A When we got to the yard, that was
14 when we started working.

15 Q You started working on the job
16 sites when you picked up the rake or the screw
17 machine?

18 A Yes. But when we got to the yard,
19 we would put in the tools, yes.

20 Q You would put the tools in where?

21 A The truck.

22 Q The tools were in the truck from
23 the night before?

24 MR. MCNAMARA: Objection.

25 Q The propane, you talked to

1 M. Tulio Perez

2 everybody about that, right?

3 MR. MCNAMARA: Objection.

4 Q That's okay, we know.

5 A What do you know?

6 Q We know what you all talked about
7 to figure out what you put in the truck.

8 MR. MCNAMARA: Objection.

9 A Well, we would put in the propane,
10 all of that stuff.

11 Q The propane, all of the propane,
12 right?

13 A (No verbal response.)

14 Q Right?

15 A Yes, propane.

16 Q But the other tools were already
17 in there, right?

18 A Yes. But sometimes we needed to
19 change from one truck to another so we would
20 have to take them out.

21 Q Who drove the truck?

22 A There were various people.

23 Q Who?

24 A Lerly, Carlos, Nelson, Walter,
25 just them.

1 M. Tulio Perez

2 Q You were basically going to the
3 yard so you can get a lift to the job site,
4 correct?

5 A No. We had to be at the yard at
6 6:30.

7 Q Who told you that?

8 A He would tell me.

9 Q Did you ever go directly from home
10 to a job site?

11 A Sometimes.

12 Q So you didn't always go to the
13 yard, correct?

14 A I always went, but I said
15 sometimes.

16 Q Every night, somebody would call
17 you and tell you to go to the yard in the
18 morning?

19 A But he just told you that.

20 MR. MCNAMARA: Let the record
21 reflect that the witness is referring to
22 Louis Vecchia when he says "he."

23 MR. ZABELL: I'm assuming that is
24 accurate, but I don't know what is going
25 on in your client's head.

1 M. Tulio Perez

2 MR. MCNAMARA: He's pointing to
3 Louis.

4 MR. ZABELL: I don't know what is
5 going on in his head. I can assume
6 that's what he meant, but I can't say
7 with any level of certainty.

8 Q Did somebody call you every night
9 and tell you to show up at the yard at 6:30?

10 A Sometimes Renato would call me.

11 Q What would Renato call you?

12 MR. MCNAMARA: Objection.

13 A He was in charge and sometimes --
14 I didn't know the time.

15 Q Did Louis Vecchia ever call you?

16 A Never.

17 Q It was always Renato?

18 A Renato.

19 Q Did you get along with Renato?

20 A Yes.

21 Q Did you ever fight with him?

22 A Yes, one time.

23 Q What did you fight about?

24 A He yelled at me and I got angry.

25 Q What did he yell at you for?

1 M. Tulio Perez

2 A I don't know, for something
3 stupid.

4 Q Kind of like I was yelling at you
5 before?

6 MR. MCNAMARA: Objection.

7 A The same.

8 Q So for something stupid, right?

9 A Yes, but it was nothing.

10 Q You were acting stupid?

11 A Yes.

12 Q Today or then or both?

13 A What?

14 Q With Renato, you were acting
15 stupid, correct?

16 A Who?

17 Q You.

18 A No.

19 MR. MCNAMARA: Objection.

20 Q You said that he yelled at you
21 because you were acting stupid?

22 A For something stupid, something
23 about work.

24 Q Did you say Louis Vecchia told you
25 that you had to come into the yard at 6:30 in

1 M. Tulio Perez

2 the morning?

3 A I told you that he never said
4 that.

5 Q You're sure he never told you?

6 A I'm sure.

7 Q So if you said before that he told
8 you that, you would have been lying, correct?

9 MR. MCNAMARA: Objection.

10 A I'm not lying.

11 Q If you said that Louis Vecchia
12 told you that you had to be in at 6:30 in the
13 morning, you would be lying, correct?

14 A Tommy was the one that would tell
15 us, and he was the person in charge.

16 Q Just about three minutes ago, you
17 said it was Renato, always Renato?

18 A Yes, but I told you that Renato
19 was only sometimes.

20 Q No, you said Renato, always
21 Renato.

22 A I never said that.

23 Q Sure, you did.

24 A I said sometimes.

25 Q Did I catch you in a lie?

1 M. Tulio Perez

2 MR. MCNAMARA: Objection.

3 A Well, I said the truth.

4 Q So the truth in your head was a
5 lie?

6 A No.

7 Q Did Tommy call you every night?

8 A No. Sometimes we would go and
9 look at the office to see what time we had to
10 start.

11 Q Sometimes you would go into the
12 office to find out where the jobs were, correct?

13 A No. In the evening, when we got
14 out. But we would always start at 6:30.

15 Q But if you knew where the job was
16 from the evening before, how come you didn't go
17 directly to the job site?

18 A Because we had to go to the yard.

19 Q Did Louis Vecchia ever tell you
20 that you had to go to the yard?

21 A No, but we always had to go there.

22 Q Even though nobody told you?

23 A Yes.

24 Q In fact, on a few occasions, you
25 went directly to the job site, correct?

1 M. Tulio Perez

2 A Sometimes, like I said before.

3 Q You had that ability, and you met
4 your co-workers there, correct?

5 A Where?

6 Q To go directly to the job site.

7 A I don't understand.

8 Q On some occasions, you went
9 directly to the job site?

10 A I told you that sometimes.

11 Q Yes. You met your co-workers
12 there, correct?

13 A No, I would meet them at the yard.

14 Q Okay.

15 A Louis knows. I don't know why
16 he's laughing.

17 Q He's laughing because there is
18 inconsistencies in how you're testifying, and he
19 and I both don't think you understand that.

20 That's why I am repeating these
21 questions a couple of times over just to make
22 sure that you really understand what you're
23 testifying to.

24 So you may think that we're
25 laughing at you, but we're trying to help

1 M. Tulio Perez

2 understand your story.

3 Do you understand that?

4 A Why is Louis telling you what to
5 ask me?

6 Q Because he ran Suffolk Paving.

7 A Fine.

8 Q That's why.

9 A That's fine.

10 Q I'm just a lawyer. I'm not an
11 asphalt guy. He was there, so that's why he is
12 telling me what to ask.

13 Are you okay with that?

14 A That's fine.

15 Q Do I know how to rake asphalt?

16 A Who?

17 Q Me.

18 A I don't know.

19 Q I could tell you no one ever
20 taught me how to do it.

21 Can you rake asphalt better than
22 me?

23 A Of course.

24 Q Do I know how to use the screw
25 machine?

1 M. Tulio Perez

2 A No.

3 Q If I need help doing it, I'm going
4 to ask him or you.

5 A That's fine.

6 Q Okay?

7 A That's fine.

8 Q That's why he's telling me that.

9 A That's fine.

10 Q When you said you used to go to
11 the shop the night before to find out your
12 assignment, what time of the afternoon would you
13 go to the shop?

14 A When we got out of work, when we
15 got out of the truck.

16 Q What time was that?

17 A 5:30, 6:30.

18 Q What time would the office close?

19 A 5:30, sometimes they closed later.

20 Q How much later?

21 A 6:00, around there.

22 Q Never later than that, right?

23 A Well, sometimes they would work
24 late.

25 Q What days would they work late?

1 M. Tulio Perez

2 A Maybe fixing a truck that had
3 broken down.

4 Q That would be the garage, not the
5 office?

6 A Yes, but you could go into the
7 office from the garage -- not in the office, but
8 where the person in charge of the workers is.

9 Q Who is that person in charge of
10 the workers?

11 A First, it was -- his name was
12 Steven, I think, and the other one is Tommy, and
13 the other one is Dominick.

14 MR. MCNAMARA: We need to take a
15 break for a second.

16 (Whereupon, a recess was taken
17 from 1:56 p.m. to 1:57 p.m.)

18 Q Who is the owner of Suffolk
19 Paving?

20 A There are a few, there are two
21 companies.

22 Q I am not asking about two
23 companies, I'm asking about Suffolk Paving.

24 A Louis Vecchia, he's the one that I
25 know, I don't know if it's him.

1 M. Tulio Perez

2 Q So you don't know who the owner of
3 Suffolk Paving is?

4 A He is, supposedly.

5 Q And you only work for Suffolk
6 Paving, right?

7 A I also work for the other one,
8 Chris, since they're together.

9 Q Did you ever receive a paycheck
10 from Suffolk Asphalt?

11 A Yes, I did receive.

12 Q Do you have those paychecks?

13 A No.

14 Q What if I told you that you never
15 did work for Suffolk Asphalt?

16 A Well, he knows that I did.

17 Q You never got a paycheck from
18 them.

19 A Well, if it's another name, yes.

20 Q What other name?

21 A My brother.

22 Q You gave them a false name?

23 A No, he gave me the union with my
24 brother's name.

25 Q Wait. I asked you before if you

1 M. Tulio Perez

2 were in a union, you said no?

3 A Well, not me.

4 Q Your brother was in the union?

5 A He -- he -- it was his idea.

6 Q Did your brother ever work for
7 Suffolk Asphalt?

8 A He didn't work.

9 Q So you lied and criminally
10 impersonated your brother?

11 MR. MCNAMARA: Objection.

12 A No. We went with Louis and spoke
13 with Renato, and he needed somebody with a
14 union, so he sent my brother to become a member
15 of the union, and I kept the license.

16 Q What is your brother's name?

17 A Jarvin.

18 Q You impersonated Jarvin Perez?

19 A Well, it was Louis' idea.

20 Q It was Louis' idea that you
21 criminally impersonate Jarvin?

22 A Well, I needed to work.

23 Q But you did work, you testified
24 that you worked for Suffolk Paving?

25 A Yes. But if I didn't do that,

1 M. Tulio Perez

2 there weren't going to put me in the group,
3 because they all needed to have a union.

4 Q Is Jarvin legal?

5 A Yes.

6 Q Where does Jarvin work?

7 MR. MCNAMARA: Objection.

8 A He's not working.

9 Q So you stole Jarvin's identity?

10 MR. MCNAMARA: Objection.

11 A No. It was only for about
12 three months.

13 Q So you stole his identity for
14 three months?

15 A Yes, his union. But it was
16 because Louis told me. Then they continued
17 paying me the same, and I told them not to.

18 Q So you lied to make money,
19 correct?

20 MR. MCNAMARA: Objection.

21 A I needed to work.

22 Q You needed to work and you felt it
23 was okay to lie because you needed to work,
24 correct?

25 MR. MCNAMARA: Objection.

1 M. Tulio Perez

2 A Yes, but it was Louis' idea.

3 Q So it's okay to lie if you need
4 something?

5 MR. MCNAMARA: Objection.

6 A Yes. But Louis said.

7 Q Just answer my questions. Are you
8 saying that it's okay to lie if you need
9 something?

10 MR. MCNAMARA: Objection.

11 A I didn't lie. He gave my brother
12 the union so that I could work with him.

13 Q How did Louis know your brother?

14 A Because he went to the office and
15 we all spoke.

16 Q Who signed your brother's name on
17 the union papers?

18 A I don't know. Which paper?

19 Q Any union papers.

20 A The one that they sent for me to
21 go and pick up?

22 Q Any papers.

23 A Who signed -- I don't understand.

24 Q Did Louis ever sign your brother's
25 name to any documents?

1 M. Tulio Perez

2 A I'm not sure.

3 Q Did you ever sign your brother's
4 name to any documents?

5 MR. MCNAMARA: Objection.

6 A No.

7 Q Did you ever sign your brother's
8 name when you were cashing paychecks?

9 A He would sign and cash.

10 Q Who would?

11 A He, my brother.

12 Q So your brother also got paid from
13 Suffolk Paving, correct?

14 MR. MCNAMARA: Objection.

15 A Who?

16 Q Your brother.

17 A Yes. But because I worked with
18 that union.

19 Q You got paid from Suffolk Paving
20 for every week that you worked in a check, and
21 your brother got paid, even though he didn't
22 work, correct?

23 MR. MCNAMARA: Objection.

24 A But I worked as him.

25 Q You worked as him and as you?

1 M. Tulio Perez

2 A No. Only when there were State
3 jobs.

4 Q That is not what you testified
5 about before.

6 A What did I say before?

7 Q That you worked for Suffolk
8 Paving, you always got forty hours a week,
9 sometimes you got overtime, sometimes you got
10 paid in cash.

11 That's what you testified to
12 before, correct?

13 A Yes. But that was only in 2009,
14 when I had the union with my brother for about
15 three months.

16 Q Only 2009?

17 A Only 2009.

18 Q In 2008, you also got paid forty
19 hours a week, correct?

20 A Forty, but that was mine.

21 Q In 2007, you got paid forty hours
22 a week, correct?

23 A Yes, sometimes overtime, some
24 hours.

25 Q In 2006, you got paid forty hours

1 M. Tulio Perez

2 a week, correct?

3 A The same, always.

4 Q What happened after you stopped
5 using your brother's name unlawfully?

6 A I don't know. The work was less
7 and less. In 2009, they would leave me at home.

8 Q That got you upset, right?

9 MR. MCNAMARA: Objection.

10 A Just November and December.

11 Q That got you upset, right?

12 A No.

13 Q What was the highest rate per hour
14 when you worked at Suffolk Paving?

15 A Which hours? How many hours?

16 Q How much per hour was the highest
17 that you got paid?

18 A Well, regular was \$21.90.

19 Q What was the highest rate that you
20 had ever been paid per hour?

21 A If I worked prevailing, about \$55.

22 Q Did you ever work as an equipment
23 operator?

24 A Sometimes. Once Chris and I went
25 to push the machine.

1 M. Tulio Perez

2 Q So he went to push it for
3 five minutes?

4 A No. He got sick, he was there
5 one hour and came back.

6 Q How long did you push the machine
7 for, how many minutes?

8 A About an hour.

9 Q Did you get paid for it?

10 A No, normal.

11 Q Do you remember any of the jobs
12 that you worked at?

13 A We would do streets.

14 Q Do you remember any of the streets
15 that you worked on?

16 A Yes, I remember.

17 Q In 2009, tell me the streets that
18 you worked on.

19 A I can't tell you because I can't
20 remember.

21 Q You can't remember? You can't
22 remember any of them?

23 A Well, we did many.

24 Q Can you remember any of the many?
25 Do you remember any of the jobs that you worked

1 M. Tulio Perez

2 on in 2008?

3 A Well, it's difficult to remember
4 because we did different jobs.

5 Q Do you remember any of the
6 specific hours that you worked on?

7 A Specifically?

8 Q Yes, specifically.

9 A What?

10 Q Specifically, do you remember any
11 of the jobs?

12 A Well, it's hard to remember by the
13 year, but if you mention the job, I might
14 remember.

15 Q I'm asking you to remember the
16 job. I want you to mention it, if you can. Can
17 you?

18 A I only remember Broadway in
19 Brentwood, but I don't know what year. I think
20 it was 2008.

21 Q That is the only one that you
22 remember; yes or no?

23 A We did many streets in Brookhaven
24 and also in Central Islip.

25 Q Do you have a schedule of any of

1 M. Tulio Perez

2 the hours that you worked on those streets?

3 A I don't have, because the ones
4 that would do that was Renato and Carlos, and
5 Victor sometimes, Nelson, and Lerly, as well.

6 Q They kept track of all of your
7 hours, as well, correct?

8 A Yes.

9 Q And then they destroyed those
10 hours?

11 A What do you mean, they destroyed
12 those?

13 Q They no longer had those?

14 A I think they had them.

15 Q Ask your lawyer.

16 How do you spell Jarvin?

17 A J-A-R-V-I-N.

18 Q Did you ever file an income tax
19 return with Jarvin's information?

20 A No.

21 Q What about the money that you say
22 you worked under his name?

23 A Well, he did his own taxes.

24 Q So he paid taxes on money that you
25 made for him?

1 M. Tulio Perez

2 A It's clear.

3 Q So the number that you gave as a
4 Social Security number, [REDACTED], where did
5 you obtain that number?

6 MR. MCNAMARA: Objection.

7 I'm instructing the witness not to
8 answer, pursuant to the protective order.

9 MR. ZABELL: Get out. Go wait out
10 in the hallway.

11 You stay here.

12 MR. MCNAMARA: I'll stay, but,
13 Counsel, don't speak to the witness that
14 way.

15 MR. ZABELL: I just did.

16 MR. MCNAMARA: Well, refrain from
17 it in the future.

18 MR. ZABELL: No.

19 (Whereupon, Judge Tomlinson's
20 chambers was called and the following
21 colloquy was had:)

22 MR. ZABELL: I'm here with Patrick
23 McNamara. We're calling from a
24 deposition in the Quintanilla/Suffolk
25 Paving matter. We have a dispute.

1 M. Tulio Perez

2 MR. MCNAMARA: Objection.

3 A Well, I think so.

4 Q That was not very nice of you, was
5 it?

6 A I don't know, but Louis also.

7 Q Louis also what?

8 A He was the one that told me the
9 union with my brother (sic).

10 Q How did Louis even know that you
11 had a brother?

12 A Because my brother, Renato, Louis
13 and me spoke in the office.

14 Q Why?

15 A He told them that he was going to
16 give him the union so I could work.

17 Q Why wouldn't they just give you
18 the union?

19 A I don't know, ask him.

20 Q I'm asking you.

21 A I don't know.

22 Q You have no idea, right?

23 A No.

24 Q No clue?

25 A No.

1 M. Tulio Perez

2 Q You would go to the yard in the
3 morning to get a ride to the next assignment,
4 correct?

5 A No. We had to be at the yard at
6 6:30.

7 Q Just not all the time, right?

8 A Always.

9 Q Except for the times that you went
10 directly to the job, correct?

11 A Yes. But it was unusual that we
12 went straight to the job site.

13 Q Then, you would spend five or ten
14 minutes at the yard, correct?

15 A No. Because we would get there
16 before, at 6:30.

17 Q You would spend five or ten
18 minutes at the yard and then go out to your job?

19 MR. MCNAMARA: Objection.

20 A We would almost always leave the
21 yard at 6:30.

22 Q You would leave the yard at 6:30?

23 A Yes.

24 Q You testified that you always got
25 to the yard at 6:30?

1 M. Tulio Perez

2 A What?

3 Q You got to the yard at 6:30, and
4 then you would leave the yard at 6:30, correct?

5 A Sometimes we would get there at
6 6:25, and then we would leave at 6:30.

7 Q Then, you would go get breakfast?

8 A Yes, sometimes.

9 Q Egg sandwiches?

10 A Yes.

11 Q With mayonnaise?

12 A Yes. But that would only take a
13 couple of minutes.

14 Q How many minutes would it take?

15 A About five, ten. Louis didn't
16 want us to stop.

17 Q But you stopped anyway?

18 A It was only a couple of minutes.
19 If we don't eat, we can't work.

20 Q How about eating before you get to
21 work like a big boy?

22 A It was very early.

23 Q That is why it's called work and
24 not vacation.

25 A Well, I don't take five-minute

1 M. Tulio Perez

2 vacations.

3 Q Every morning you would leave the
4 yard by 6:30, correct?

5 A I already told you yes.

6 Q Then, you would go to get
7 breakfast, but it was never more than
8 five minutes, correct?

9 A Five, ten.

10 Q Five, ten, may be fifteen or
11 twenty, sometimes?

12 A I don't think so.

13 Q How many were you in the truck?

14 A Five.

15 Q So five people in a truck each
16 getting a sandwich, correct?

17 A They didn't all buy, some of them
18 took their own food.

19 Q And you would get coffee too,
20 wouldn't you?

21 A Well, I did buy coffee.

22 Q You like coffee?

23 A Yes.

24 Q Do you like Dunkin' Donuts coffee?

25 A No.

1 M. Tulio Perez

2 Q 7-Eleven?

3 A No.

4 Q Deli coffee?

5 A Deli, yes.

6 Q So you would get a coffee at the
7 deli every morning, correct?

8 A Sometimes.

9 Q How would you get your egg
10 sandwich? What kind you get on it?

11 A Sausage, bacon, egg, salt, pepper,
12 ketchup.

13 Q A little mayonnaise?

14 A No.

15 Q How would you take your egg; fried
16 or scrambled?

17 A Fried.

18 Q With the yolk out?

19 A No.

20 Q You want the yolk cooked?

21 A Yes.

22 Q That was your breakfast every
23 morning, correct?

24 A Yes.

25 Q You like lunch?

1 M. Tulio Perez

2 A Yes. But we didn't always eat, we
3 would eat late.

4 Q What would you eat for lunch?

5 A They would send someone to buy
6 food.

7 Q Everyday they would send someone
8 to buy food?

9 A Most of the time, yes.

10 Q What would you eat for lunch, what
11 would you eat?

12 A Hispanic food.

13 Q Like chicken cutlet?

14 A That's not Hispanic.

15 Q But sometimes you would eat
16 chicken cutlets?

17 A Yes, sometimes.

18 Q Because, you know, your friends
19 told me that, they told me you were the biggest
20 eater.

21 MR. MCNAMARA: Objection.

22 A That's a lie.

23 Q They said the young kid was the
24 biggest eater.

25 A How do you know that I am the

1 M. Tulio Perez

2 youngest?

3 Q Because I spoke to them all
4 already.

5 A I don't think so.

6 Q Who is the youngest?

7 A Ronald.

8 Q Ronald who?

9 A I already told you, Ronald Reyes.

10 Q The one who is not suing?

11 A Yes.

12 Q The one who believes he was
13 treated fairly and honestly?

14 A I don't know. He's the only one
15 that knows.

16 Q Right. But you believe you were
17 treated fairly and honestly by Louis Vecchia.
18 That is what you testified to before.

19 A Well, he would treat me well, but
20 he wouldn't pay the hours.

21 Q Except every check you got showed
22 the hours you worked, correct?

23 MR. MCNAMARA: Objection.

24 A What?

25 Q Every check that you got showed

1 M. Tulio Perez

2 the hours that you worked, correct?

3 A The forty hours.

4 Q Every check you got showed forty
5 hours, correct?

6 MR. MCNAMARA: Objection.

7 A Some have some overtime hours.

8 Q Because when you worked overtime,
9 you got paid overtime, correct?

10 A No, rarely.

11 Q But when you were making \$10 an
12 hour at Fasco, you were making \$20 an hour at
13 Suffolk Paving, right?

14 A But Fasco has nothing to do with
15 Suffolk.

16 Q Other than to show that Suffolk
17 paid you a hell of a lot better than you got
18 paid at Fasco. They treated you better, right?

19 A Well...

20 Q Well, yes or no?

21 A He treated me well. The only
22 thing that I said is, is that he didn't pay the
23 hours.

24 Q Did his wife ever treat you
25 poorly?

1 M. Tulio Perez

2 A I hardly ever saw her.

3 Q Did she beat you?

4 MR. MCNAMARA: Objection.

5 A Who?

6 Q His wife.

7 A Why would she hit me?

8 Q Was she nasty?

9 A Who?

10 Q His wife.

11 A No, I hardly saw her. She would
12 always be in the office, and I hardly ever went
13 to the office.

14 MR. MCNAMARA: Objection.

15 Q Did she spit on you?

16 A No.

17 Q Why are you suing her?

18 A Because they didn't pay me
19 overtime hours.

20 Q Who didn't?

21 A Suffolk Paving.

22 Q Why are you suing his wife?

23 A I'm suing the company.

24 Q No, you're suing his wife. Don't
25 you know that?

1 M. Tulio Perez

2 MR. MCNAMARA: Objection.

3 A The paper that I have, it says
4 Helene, Louis and Chris.

5 Q Yes. You're suing his wife.

6 Do you not understand that? You
7 don't understand that at all?

8 A That they're the ones that are in
9 the lawsuit.

10 Q Do you not want to sue his wife?

11 MR. MCNAMARA: Objection.

12 A Well, I'm suing the company for my
13 overtime hours and that is everything.

14 Q No, you're suing his wife, too,
15 and his boy?

16 A But they're part of the company.

17 Q No, Chris is not part of Suffolk
18 Paving.

19 A But they're together.

20 Q What do you mean, "they're
21 together"?

22 A Well, they use the same machine,
23 Suffolk uses the same machine, that the two
24 companies use the same machine.

25 Q Is that the only basis for

1 M. Tulio Perez

2 believing that they're the same company?

3 A Well, they're two companies.

4 Q And you only worked for Suffolk
5 Paving?

6 A And for the other one, but with my
7 brother.

8 MR. ZABELL: Let's take a short
9 recess.

10 (Whereupon, a recess was taken
11 from 2:25 p.m. to 3:27 p.m.)

12 Q Do you have any of your pay stubs
13 from Suffolk Paving for 2009?

14 A I'm not sure, I think so.

15 Q Where are they?

16 A If I have them, they're at home.

17 Q Did your lawyers ask you to
18 provide them?

19 A They didn't say anything.

20 Q So you never provided it to them?

21 MR. MCNAMARA: Objection.

22 A I only gave them the income taxes.

23 Q You gave them your income tax
24 returns?

25 A Yes.

1 M. Tulio Perez

2 Q Did you give them any of Jarvin's
3 income tax returns?

4 A No.

5 Q Jarvin is a citizen, correct?

6 A No.

7 Q Did Jarvin come here illegally?

8 MR. MCNAMARA: Objection.

9 A No.

10 Q He came here legally?

11 A Yes.

12 Q You didn't come here at the same
13 time as Jarvin, did you?

14 A (No verbal response.)

15 MR. MCNAMARA: Mr. Perez, you can
16 answer that question.

17 A No.

18 Q Did he come before you or after
19 you?

20 A After.

21 Q You came after him or he came
22 after you?

23 MR. MCNAMARA: Objection.

24 A He came after.

25 Q He's a nice guy?

1 M. Tulio Perez

2 A I think so.

3 Q Honest?

4 A For me, yes.

5 Q More trustworthy than you?

6 MR. MCNAMARA: Objection.

7 A Well, I'm responsible for my own
8 actions.

9 Q I know you are. That's why I'm
10 asking you if Jarvin is more trustworthy than
11 you.

12 A I don't know.

13 Q You think so?

14 MR. MCNAMARA: Objection.

15 A If I think what?

16 Q Jarvin is more honest than you.

17 MR. MCNAMARA: Objection.

18 A I don't know. I only know about
19 myself.

20 Q What about Louis Vecchia, he is an
21 honest person?

22 A I don't think so.

23 Q Did he ever lie to you?

24 A Well, I think he did.

25 Q What did he lie to you about, told

1 M. Tulio Perez

2 you that haircut looked good?

3 A Sometimes he did.

4 Q Sometimes he told you your haircut
5 looked good?

6 A Yes.

7 Q And you knew that was a lie?

8 MR. MCNAMARA: Objection.

9 A I think so.

10 Q What else?

11 A He told me I was handsome.

12 Q Did he tell you about the hair
13 under your face?

14 A I didn't have that at that time.

15 Q It just grew in?

16 A Yes.

17 Q Just like your lawyer, his grew in
18 just yesterday. He's like a pale version of
19 you.

20 MR. MCNAMARA: Objection.

21 Q That is all he lied to you about?
22 He told you that you were handsome, when you
23 didn't think that you were?

24 A Just that.

25 Q Nothing else?

1 M. Tulio Perez

2 A No.

3 Q So he was always pretty honest
4 with you, right?

5 A I think that he was, but the only
6 thing is the hours.

7 Q Right. Because that is what you
8 practiced to say today?

9 MR. MCNAMARA: Objection.

10 A Since you asked me many times, I
11 already know.

12 Q That is what you practiced to say
13 today, right?

14 MR. MCNAMARA: Objection.

15 Q You can say yes.

16 A Maybe.

17 Q You worked with Renato Guerra the
18 entire time, correct?

19 A Fajardo.

20 Q Fajardo, did I say that right?

21 A No.

22 Q How do I say it?

23 A Fajardo.

24 Q Si, no?

25 A Yes.

1 M. Tulio Perez

2 Q Maynor Fajardo or Renato Fajardo,
3 is that good?

4 A Yes.

5 Q Or just passable?

6 A You said it well.

7 Q Thank you.

8 There was a period of time where
9 Maynor Fajardo left the country, do you remember
10 that?

11 A I think it was in 2008, I think,
12 I'm not sure.

13 Q When he left the country, you
14 didn't work with him, right?

15 A Not at that time.

16 Q Who did you work with during that
17 time?

18 A With Chris, Carlos. Chris was in
19 charge.

20 Q So before Chris was in charge, it
21 was Maynor Fajardo?

22 A Yes.

23 Q You still worked the same schedule
24 that you testified to before, correct?

25 A Yes.

1 M. Tulio Perez

2 Q You were in at 6:30 and you would
3 stop work anywhere between 4:30 and 5:30,
4 correct?

5 MR. MCNAMARA: Objection.

6 A That was the norm.

7 Q And you would stop for breakfast
8 every morning, correct?

9 A Yes.

10 Q Somebody would get lunch during
11 the day, correct?

12 A For lunch, yes.

13 Q You would either get Spanish food
14 or chicken cutlets?

15 MR. MCNAMARA: Objection.

16 A Hispanic and sometimes chicken
17 cutlets.

18 Q You love those chicken cutlets?

19 A I don't like them. I ate them so
20 much, I got bored of them.

21 Q Did you like them fried or
22 grilled?

23 A I think fried.

24 Q Of course, because that is the bad
25 stuff. It clogs your arteries and gives you a

1 M. Tulio Perez

2 heart attack at an early age.

3 A I take care of myself, I exercise.

4 Q You do?

5 A Yes.

6 Q But you still like the fried
7 chicken cutlets?

8 A I hardly eat that anymore.

9 Q Anymore, but when you did eat it,
10 did you eat it with cheese?

11 A I didn't like cheese.

12 Q Did you have it with mustard,
13 ketchup?

14 A Ketchup, yes.

15 Q Mayonnaise?

16 A No.

17 Q Pickles?

18 A No.

19 Q Lettuce, tomato?

20 A Yes.

21 Q Onion?

22 A No.

23 Q Basil?

24 A No, I don't like that.

25 Q You don't like basil?

1 M. Tulio Perez

2 A No.

3 Q What's the matter with you?

4 A I don't like it, that's it.

5 Q Something is wrong with you.

6 Basil promotes good colon care.

7 MR. MCNAMARA: Is that true? I
8 guess that means I'm protected.

9 Q Did you know that?

10 A No.

11 Q Do you not care about your colon?

12 A I don't like that, that's it.

13 Q You should keep an open mind,
14 okay?

15 A That's fine.

16 Q Do you know how long Maynor
17 Fajardo was out of the country for?

18 A I'm not sure, but about six or a
19 year (sic).

20 Q Six what?

21 A Months or one year, I don't know.

22 Q Do you know why he left the
23 country?

24 A Yes, I know.

25 Q Why?

1 M. Tulio Perez

2 A Because his mother was sick.

3 Q And?

4 A And he had a girlfriend in
5 Columbia.

6 Q What about his wife?

7 A They separated.

8 Q Because he went to see his novia
9 in Columbia?

10 A No, because most people -- most of
11 us who work there, we used to get out late, so
12 our woman would get tired of that.

13 Q Your woman would get tired of you
14 bringing home a paycheck and making good money
15 and leave you, right? They would leave you for
16 someone that doesn't work very hard and doesn't
17 make money?

18 A Maybe, I don't know.

19 Q Yes, you know, you know a little
20 bit.

21 A I don't.

22 Q Are you saying Maria left you
23 because you worked too hard?

24 MR. MCNAMARA: Objection.

25 A No. That was for problems that we

1 M. Tulio Perez

2 had.

3 Q Were the problems that you had
4 because you worked too hard?

5 MR. MCNAMARA: Objection.

6 A Lack of communication.

7 Q That is a very sophisticated
8 answer you gave there.

9 A I knew you were going to say that.

10 Q Did you not communicate about your
11 girlfriend to her?

12 MR. MCNAMARA: Objection.

13 A I didn't have another one.

14 Q Yes, you did.

15 A Well, I know that I didn't.

16 Q Do you know what you look like
17 when you lie?

18 MR. MCNAMARA: Objection.

19 A No.

20 Q Do you want to go into the
21 bathroom and take a look in the mirror?

22 A I don't need to go to the
23 bathroom.

24 Q Just to look in the mirror so you
25 can see what you look like when you lie?

1 M. Tulio Perez

2 A I'm not lying.

3 Q Did you ever lie to Maria?

4 MR. MCNAMARA: Objection.

5 A No.

6 Q Never?

7 A Never.

8 Q You never told her she looked good
9 when she didn't look so good?

10 A No.

11 Q You never told her that the meals
12 that she cooked for you tasted great, when you
13 knew it didn't taste so good?

14 A She always cooked well.

15 Q You never told her that she looked
16 just like she looked the first time you set eyes
17 on her?

18 A What?

19 Q You never said to her she looks
20 better with age?

21 A When she was older, she looked
22 better.

23 Q You never said that to her?

24 A No.

25 Q Did she?

1 M. Tulio Perez

2 A No, I never said anything. Since
3 I would get home late, I would be very tired and
4 I would just go to sleep. When you work with
5 asphalt, it's very hot and you get home very
6 tired.

7 Q Is that what was wrong with the
8 relationship?

9 A I think that was part of it, but
10 the rest, I think we didn't understand each
11 other.

12 MR. MCNAMARA: Objection.

13 Q Does she not speak Spanish?

14 A She speaks Spanish.

15 Q Where was she from?

16 A From El Salvador.

17 Q But you both speak Spanish; how
18 could you not understand each other?

19 A Yes, but I'm not talking about the
20 language, but about decisions, many things, a
21 lot of times, you don't get along, just like all
22 couples.

23 Q Is it because men are from Mars
24 and women are from Venus?

25 A I don't know, if you say so.

1 M. Tulio Perez

2 Q But you never lied to a woman,
3 right?

4 A No.

5 Q You never said they were beautiful
6 just to sleep with them?

7 A No.

8 Q He did?

9 A He's another person.

10 Q Look at him, his face is as red as
11 your shirt.

12 Did you ever lie to get something
13 you wanted?

14 MR. MCNAMARA: Objection.

15 A No. I'm a person who says things
16 that I think. I say it to your face, not behind
17 your back.

18 Q So you never lied, cheated or
19 stole to get what you wanted, correct?

20 MR. MCNAMARA: Objection.

21 A I have never stolen.

22 Q Have you ever lied?

23 A Well, I think everyone has lied at
24 least sometime, but that doesn't mean that
25 person is a liar.

1 M. Tulio Perez

2 Q So you're saying a person is not a
3 liar if they lie? Is that for me?

4 A Can I answer?

5 Q Only if it's for me. If it's not
6 for me, then, no.

7 A It's not for you.

8 Q How do you know?

9 A Because it's my telephone.

10 Q Is it your girlfriend?

11 A No.

12 Q Was it my girlfriend?

13 A I don't know if you have one.

14 Q Who was it?

15 A A friend.

16 Q What was his name?

17 MR. MCNAMARA: Objection.

18 A Lerly.

19 Q Lerly Noe?

20 A Yes.

21 Q I love that name. When I get a
22 dog, I'm going to name it Lerly Noe.

23 A That's good.

24 Q Noe Zabell.

25 Was Lerly calling to see how you

1 M. Tulio Perez

2 were doing?

3 A No.

4 Q Why was he calling you?

5 A Well, because he is my friend and
6 he can call me anytime.

7 Q He can call me too.

8 A I don't think he has your number.

9 Q I've got yours.

10 A Who has it?

11 Q Me.

12 A Which telephone?

13 Q That is not the number I'm talking
14 about.

15 MR. MCNAMARA: Objection.

16 Q Why don't you tell me your cell
17 phone number?

18 MR. MCNAMARA: Objection.

19 A Which number?

20 Q The number for that phone.

21 A My telephone, yes, I'll give it to
22 you. [REDACTED].

23 Q Is that the number that you had
24 when you worked at Suffolk Paving?

25 A No.

1 M. Tulio Perez

2 Q You had a cell phone back then?

3 A Yes, but sometimes I didn't have a
4 phone.

5 Q In 2010, did you ever call Louis
6 Vecchia to try to get a job?

7 A No, I called Tommy. I'm not sure
8 if it was at the beginning of the 2010 season,
9 but he didn't answer, so I looked for work
10 somewhere else.

11 Q And you got a job at Fasco?

12 A Yes.

13 Q When did you start at Fasco?

14 A 2010.

15 Q When in 2010?

16 A In about April.

17 Q At the beginning of the season?

18 A Yes.

19 Q So you didn't lose any time?

20 A I think, because I went out to
21 look for work.

22 Q So you didn't lose any time,
23 right?

24 A Yes, I did miss because I started
25 late.

1 M. Tulio Perez

2 Q My client says you do a good job.

3 A He knows that I do.

4 Q I just said that he told me that
5 you do. He said your attitude is not so good,
6 though.

7 A Who?

8 Q You.

9 Is that true? Do you have a bad
10 attitude?

11 MR. MCNAMARA: Objection.

12 A That is a lie.

13 Q I think you have a bad attitude
14 and that is just from today.

15 MR. MCNAMARA: Objection.

16 A Ask anyone and see what they say.

17 Q That is what Lou said; good
18 worker, bad attitude, he used to fight with
19 Renato.

20 A One time.

21 Q I heard it was more and it was
22 bad.

23 A Then, you know more than me. I
24 don't think you know more than I do.

25 Q You don't? I know a lot more than

1 M. Tulio Perez

2 you do.

3 A Yes, but I said Lou.

4 Q You said Louis what?

5 A Because Louis said that I had
6 fought more than once with Renato.

7 Q Did you always listen to Renato?

8 A I always listened to him.

9 Q Was Renato honest all the time?

10 A With me, yes.

11 Q With others, no?

12 A I don't know.

13 Q Sure, you do.

14 A Why didn't you ask him when he
15 came?

16 Q I did.

17 A What did he say?

18 Q A lot of lies. He admitted to
19 lying too. It's okay. I come to expect it from
20 you.

21 MR. MCNAMARA: Objection.

22 Q We all do.

23 What time each day would you eat
24 lunch?

25 A It was no specific time.

1 M. Tulio Perez

2 Q They would send somebody off to
3 get it, and then you would all come back and
4 eat?

5 A One person went.

6 Q Who was that person usually?

7 A Sometimes it was Victor, Carlos.

8 Q Carlos Escalante?

9 A Yes.

10 Q Victor Quintanilla?

11 A Or Lerly, it depended on who was
12 in the group.

13 Q Lerly Noe Rodriguez?

14 A Yes.

15 Q I love that name.

16 A Yes, for your dog, right.

17 Q Yes. Little Noe.

18 Would you all eat chicken
19 sandwiches or Spanish food?

20 A I already told you about that
21 three times.

22 Q Tell me again.

23 A Okay. Chicken cutlet or Hispanic
24 food.

25 Q On a roll or a hero, would you eat

1 M. Tulio Perez

2 that chicken cutlet?

3 A I liked a roll.

4 Q You liked a roll, a nice big
5 sandwich, right?

6 A Yes.

7 Q What would you drink with that
8 sandwich?

9 A A soda.

10 Q A soda? Not even Gatorade?

11 A No.

12 Q Iced tea?

13 A Yes.

14 Q Because soda is no good for you,
15 it will rot your teeth.

16 A But the dentist can fix them.

17 Q I didn't know you were such a
18 wealthy man.

19 Do you have dental insurance?

20 A No.

21 Q Did you ever have dental
22 insurance?

23 A No.

24 Q Did you ever go to a dentist?

25 A Yes.

1 M. Tulio Perez

2 Q They fixed your rotting tooth?

3 A He's never fixed a rotten tooth.

4 Q Your dentist has never fixed a
5 rotten tooth?

6 A No.

7 Q I think maybe you should find a
8 new dentist, maybe one that has fixed a rotten
9 tooth.

10 A That's fine.

11 Q Okay?

12 A That's fine.

13 Q Did you ever break the law?

14 A Sometimes, yes.

15 Q Tell me the last time you broke
16 the law.

17 A Some tickets that I haven't paid.

18 Q What kind of tickets?

19 A Transit.

20 Q You mean from driving?

21 A [REDACTED]

22 Q [REDACTED]

23 A [REDACTED]

24 Q [REDACTED]

25 A [REDACTED]

1 M. Tulio Perez

2 Q [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 Q [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] Q Right. So you didn't mind

15 breaking the law to make money, correct? You

16 have two babies at home?

17 A Yes.

18 Q And two baby mamas, right?

19 A Right -- what?

20 Q You have two baby mamas you have

21 to support too?

22 A No, only my daughter.

23 Q You don't support the woman who

24 gave you your daughter?

25 A Not the one that I am separated

1 M. Tulio Perez

2 from.

3 Q You took the best years of her
4 life and you don't support her?

5 A How do you know they were the best
6 years?

7 Q Look. Not everybody has got such
8 great years, but whatever they were, you took
9 some years from her.

10 A But she also took mine.

11 Q What did she take from you?

12 A Same thing that I took from her.

13 Q You still have your hair, you
14 still have your waistline.

15 A Well, I do.

16 Q You still have that fuzz under
17 your face.

18 A Yes, I have it here.

19 Q So what did you lose?

20 A My daughter, because she's not
21 with me.

22 Q That's your own fault.

23 A I don't think it's only mine.

24 Q Whose fault do you think it is?

25 A Both of us.

1 M. Tulio Perez

2 Q Is it Louis Vecchia's fault?

3 A I don't think so.

4 Q Is it my fault?

5 A I didn't know you at that time.

6 Q Was it Patrick's fault?

7 A It's the first time that I have
8 ever saw him.

9 Q Was the first time you ever saw
10 him, it may not be the first time that Maria
11 ever saw him.

12 A I have no problem with that.

13 Q You said he was very cute before?

14 A I am not jealous.

15 Q I thought maybe you were.

16 A No.

17 Q So you don't support her at all?

18 A My daughter, yes.

19 Q \$110 a week, correct?

20 A Yes.

21 Q Are you sure about that number?

22 A Yes.

23 Q How much a month?

24 A \$440, depends on the weeks.

25 Q Why does it depend on the weeks?

1 M. Tulio Perez

2 A Because some months have
3 five weeks, so then it's \$550.

4 Q How else have you broken the law
5 since you have been in the United States?

6 A Only tickets, traffic, just
7 traffic tickets.

8 Q Just traffic tickets?

9 A Yes.

10 Q [REDACTED] [REDACTED]

11 [REDACTED] [REDACTED]

12 Q And using your brother's
13 identification?

14 MR. MCNAMARA: Objection.

15 A Yes.

16 Q [REDACTED] [REDACTED]

[REDACTED] [REDACTED]

[REDACTED] [REDACTED] [REDACTED]

[REDACTED] [REDACTED]

[REDACTED] [REDACTED]

[REDACTED] [REDACTED]

[REDACTED] [REDACTED] [REDACTED]

[REDACTED] [REDACTED]

[REDACTED] Q All of that is acts that you have
[REDACTED] taken to break the law, correct?

1 M. Tulio Perez

2 MR. MCNAMARA: Objection.

3 A Yes.

4 Q But it was okay, because you were
5 doing that to make money, correct?

6 A Not to make money, to support my
7 family.

8 Q What's the difference?

9 A There is a lot of difference,
10 because to make money, it's not only to make
11 money, it's to support my family.

12 Q You mean to support your family
13 making money?

14 A (No verbal response.)

15 Q We're waiting for your answer.

16 A The one about the money?

17 Q Yes.

18 A Well, I earned that money to
19 support my family.

20 Q It was okay to lie and cheat in
21 order to get that money, correct?

22 A Well, I needed to do that.

23 Q You needed to lie and cheat to get
24 that money? I'm not judging. Right?

25 A Yes.

1 M. Tulio Perez

2 Q Have you ever been arrested?

3 MR. MCNAMARA: Objection.

4 A No.

5 Q Either in this country or in
6 another country?

7 MR. MCNAMARA: Objection.

8 A No.

9 Q Are you sure?

10 A Yes.

11 Q In Honduras, you were never
12 arrested?

13 A No, because I was a baby there, a
14 child.

15 Q How old were you when you came to
16 the United States?

17 A I was an adolescent.

18 Q You're still an adolescent.

19 A If that is what you say, that's
20 fine.

21 Q That is a compliment.

22 A Well...

23 Q [REDACTED]

24 [REDACTED]

25 A [REDACTED] [REDACTED] [REDACTED]

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since 2001?

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you been?

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MR. MCNAMARA: Objection.

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Q In the United States and you have
been to LA? I love LA.

A Me, too.

Q What do you like about LA?

A That there are a lot of bridges
and a lot of lights.

Q Bridges and lights?

A Yes.

Q Not beautiful women and beaches?

A No.

Q No interest in that, right?

A No.

Q You would rather look at a
beautiful bridge than a beautiful woman?

MR. MCNAMARA: Objection.

A Yes, because sometimes women cause
a lot of problems.

Q Sometimes bridges cause a lot of
problems.

A They don't cause me any problems.

Q Because you don't have a car,

1 M. Tulio Perez

2 right?

3 A (No verbal response.)

4 Q Did any woman cause you problems
5 in LA?

6 A No.

7 Q How long were you in LA?

8 A Just one day.

9 Q Did you see any movie stars?

10 A No.

11 Q Did you look for them?

12 A I was not looking for anyone.

13 MR. ZABELL: I think we're going
14 to take a break, okay.

15 MR. MCNAMARA: Any chance we can
16 wrap this up?

17 (Whereupon, a recess was taken
18 from 4:00 p.m. until 4:19 p.m.)

19 Q Did you ever work on a prevailing
20 wage job and not get paid prevailing wage rates?

21 A One time, yes.

22 Q Where was that?

23 A Well, I worked forty-five, they
24 paid me twenty, and the rest, they paid me
25 regular.

1 M. Tulio Perez

2 Q Where was that?

3 A I don't remember where it was.

4 Q Do you remember when it was?

5 A No, I only remember that it
6 happened.

7 Q So you don't remember when it
8 happened, you don't remember where it happened.

9 Do you remember to whom it
10 happened?

11 MR. MCNAMARA: Objection.

12 A It happened to me.

13 Q When?

14 MR. MCNAMARA: Objection.

15 A Well, I can't tell you the exact
16 date.

17 Q Why?

18 A I don't recall.

19 Q Who?

20 MR. MCNAMARA: Objection.

21 A Me.

22 Q In Honduras?

23 MR. MCNAMARA: Objection.

24 A We're not talking about Honduras.

25 Q Who knows? You don't know when it

1 M. Tulio Perez

2 happened. It happened in 2001?

3 MR. MCNAMARA: Objection.

4 A I was not working at Suffolk at
5 that time.

6 Q I don't care where you were
7 working.

8 Did it happen in 2001?

9 MR. MCNAMARA: Objection.

10 A No.

11 Q Did it happen in 2002?

12 A I was not working there at that
13 time.

14 Q Did it happen in 2003?

15 A No.

16 Q Did it happen in 2004?

17 A I don't know.

18 Q Did it happen in 2005?

19 MR. MCNAMARA: Objection.

20 A Approximately, 2008, 2007.

21 Q But you have no idea what job it
22 was, right?

23 A I can't remember. We did so many
24 jobs.

25 Q All you can remember is that you

1 M. Tulio Perez

2 would get paid forty hours, right?

3 A Yes, that, I know.

4 Q Forty hours, right?

5 A That is what they paid me.

6 Q So every week your paychecks
7 indicated that you worked forty hours?

8 MR. MCNAMARA: Objection.

9 A Sometimes they would pay me some
10 hours.

11 Q Sometimes you would get overtime,
12 right?

13 A Sometimes.

14 Q On the checks that you got paid
15 overtime, you actually worked overtime, right?

16 A But they didn't pay what it was.

17 Q But the weeks you got paid
18 overtime were weeks that you actually worked
19 overtime, right?

20 MR. MCNAMARA: Objection.

21 A I always worked overtime hours.

22 Q Except for the weeks that you
23 didn't, right?

24 MR. MCNAMARA: Objection.

25 A I always did overtime.

1 M. Tulio Perez

2 Q There were some weeks that you
3 didn't even work forty hours, right?

4 A Yes. But that was unusual.

5 Q But your regular time was always
6 recorded accurately on your paychecks, right?

7 A Not the overtime hours.

8 Q The regular time hours were always
9 recorded correctly?

10 MR. MCNAMARA: Objection.

11 A The normal hours, yes.

12 Q Did you ever complain to anybody
13 when you worked at Suffolk Paving?

14 A Yes. We would tell Tommy and
15 Louis, and they would say next week, that they
16 would put it in our check next week, then we got
17 tired of telling them.

18 Q Who is the "we" that would tell
19 them?

20 A Renato would tell them, Carlos.

21 Q Oh, Renato would tell them, but
22 you would never tell them?

23 MR. MCNAMARA: Objection.

24 A I would tell Renato to tell them.

25 Q So you don't know if Renato would

1 M. Tulio Perez

2 tell them?

3 MR. MCNAMARA: Objection.

4 A I know that he was telling them.

5 Q Did you know that Renato was given
6 cash to give you guys?

7 MR. MCNAMARA: Objection.

8 A No, I don't know. He never --
9 Renato never has given me cash.

10 Q Do you know if he was given cash
11 to give you and he robbed from you?

12 MR. MCNAMARA: Objection.

13 A No.

14 Q And from your baby?

15 MR. MCNAMARA: Objection.

16 A Which baby?

17 Q I don't know. How many do you
18 have?

19 A Two.

20 Q Well, Marilyn is young?

21 A At that time, I only had one.

22 Q Cherlin?

23 A Yes.

24 Q So that is the baby that he stole
25 from. Are you comfortable with the fact that he

1 M. Tulio Perez

2 stole from her?

3 A How do you know that he stole?

4 Q If he was given cash to give you
5 and he never gave you cash, then he stole from
6 you and your baby.

7 A That is a lie, because he would
8 say that the following week that he would
9 include it in the check and he never did.

10 Q I'm lying, he couldn't be lying,
11 right?

12 A Who is not lying?

13 Q Did anybody tell you that there
14 was an offer to settle this case?

15 MR. MCNAMARA: Objection.

16 A No.

17 Q If there was an offer to settle
18 this case, don't you think you should have been
19 told?

20 A Well, I know that Louis offered
21 \$100,000 to Mendez for all of us and that is
22 offensive. It's a joke.

23 Q How much money are you looking
24 for?

25 A What they owe me.

1 M. Tulio Perez

2 Q How much is that?

3 A Well, I'm not an accountant to be
4 able to figure it out.

5 Q So you have no idea what you
6 believe you're owed?

7 A If you want, I can figure it out.

8 Q How would you go about to figure
9 it out? No, put your phone away. I want you to
10 tell me the formula.

11 A Okay. Minimum three hours a day,
12 times five days, that is fifteen. One month is
13 sixty times nine, how much is that? I don't
14 know, by six.

15 Q Who told you that formula?

16 A No one. I went to school and I
17 know a little bit about numbers.

18 Q Did you learn how to lie to get
19 what you want in that school?

20 A No. They only showed me how to
21 read and write.

22 Q Did you learn how to cheat?

23 MR. MCNAMARA: Objection.

24 A No.

25 Q Did they teach you how to commit

1 M. Tulio Perez

2 fraud in that school?

3 A No. I have always been an honest
4 person.

5 Q You admitted to me to lying,
6 cheating and stealing here in the United States.

7 MR. MCNAMARA: Objection.

8 A I never told you that I have
9 stolen.

10 Q You stole your brother's identity,
11 correct?

12 A I didn't steal that, because it
13 was Louis' idea and he knows that.

14 Q [REDACTED]
[REDACTED]
[REDACTED] [REDACTED] [REDACTED]
[REDACTED] [REDACTED] [REDACTED]
[REDACTED] [REDACTED] [REDACTED]
[REDACTED] [REDACTED] [REDACTED]
[REDACTED] [REDACTED] [REDACTED]
[REDACTED] [REDACTED] [REDACTED]
[REDACTED] [REDACTED] [REDACTED]
[REDACTED] [REDACTED] [REDACTED]

22 MR. MCNAMARA: Objection.

23 [REDACTED]
24 [REDACTED] [REDACTED]
25 [REDACTED] .

1 M. Tulio Perez

2 Q [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] I'm not talking about Louis. I'm
6 talking about you.

7 [REDACTED]

[REDACTED]

[REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

[REDACTED]

18 Q But you don't have to have a
19 family if you can't support them, right? No one
20 told you to have babies, right?

21 A Yes, but I support the babies.

22 Q With money that you cheat, lie and
23 steal to get, right?

24 A I didn't steal it. I earned it by
25 working.

1 M. Tulio Perez

2 Q You earned it by cheating, lying
3 and stealing?

4 MR. MCNAMARA: Objection.

5 A I don't think I have robbed.

6 Q [REDACTED]

7 [REDACTED] [REDACTED]

8 [REDACTED] [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED] [REDACTED]

12 [REDACTED]

13 MR. MCNAMARA: Objection.

14 A Why not?

15 Q Because if you have to cheat and
16 steal and lie just to support them, some people
17 would say that it's more important to be a good,
18 decent, honest person, and live within my means
19 than to lie, cheat and steal. That is why not.

20 Do you believe in religion?

21 MR. MCNAMARA: Objection.

22 A I do.

23 Q Do you go to church?

24 MR. MCNAMARA: Objection.

25 A No.

1 M. Tulio Perez

2 Q Did you ever?

3 A Yes, I have gone.

4 Q Whoever you pray to, do they tell
5 you that it's okay to lie, cheat and steal?

6 MR. MCNAMARA: Objection.

7 Q Yes or no?

8 A Yes or no what?

9 Q Whoever you pray to, do they say
10 it's okay for you to lie, cheat and steal?

11 A I don't know.

12 Q You don't know? Who do you pray
13 to?

14 A To you.

15 Q I wish.

16 Who do you pray to?

17 MR. MCNAMARA: Objection.

18 A To God.

19 Q Who is your God?

20 MR. MCNAMARA: Objection.

21 A The same one that you have.

22 Q Does your God tell you that it's
23 okay to lie, cheat and steal?

24 MR. MCNAMARA: Objection.

25 A I never spoken with him.

1 M. Tulio Perez

2 Q Your mother didn't make you go to
3 church as a little boy?

4 MR. MCNAMARA: Objection.

5 A I don't know.

6 Q You're not going to answer my
7 questions. You're going to say you don't know?

8 A I don't know. What do you want me
9 to tell you?

10 Q I want you to tell me if you went
11 to church as a child or not.

12 A I think I did.

13 Q Do you go to church now?

14 A No.

15 Q Do you think you should?

16 MR. MCNAMARA: Objection.

17 A Yes.

18 Q When are you going to start?

19 A Maybe in the winter.

20 Q Maybe that's too late.

21 MR. MCNAMARA: Objection.

22 A It's never too late.

23 Q Maybe it's too late.

24 MR. MCNAMARA: Objection.

25 Q Is there anything else you want to

1 M. Tulio Perez

2 tell me?

3 A No.

4 Q Did you drive here today?

5 MR. MCNAMARA: Objection.

6 A No.

7 Q You didn't break the law coming

8 here today?

9 MR. MCNAMARA: Objection.

10 A I don't think so.

11 Q When was the last time you broke

12 the law?

13 MR. MCNAMARA: Objection.

14 A I don't recall, it was just the

15 tickets.

16 Q [REDACTED]

[REDACTED]

18 MR. MCNAMARA: Objection.

19 A [REDACTED]

20 Q [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

1 M. Tulio Perez

2 Q [REDACTED]

[REDACTED]

[REDACTED] [REDACTED] [REDACTED]

[REDACTED] [REDACTED]

[REDACTED] [REDACTED] [REDACTED]

[REDACTED]

[REDACTED]

9 MR. MCNAMARA: Objection.

10 Q Do you know that?

11 A Yes.

12 Q Are you happy about that?

13 MR. MCNAMARA: Objection.

14 A No.

15 Q [REDACTED]

[REDACTED] [REDACTED]

17 A [REDACTED] [REDACTED]

18 Q You'll do anything for the money,

19 right?

20 MR. MCNAMARA: Objection.

21 A I only work for money.

22 Q You'll do anything for money,

23 right?

24 MR. MCNAMARA: Objection.

25 A I only work for money.

1 M. Tulio Perez

2 Q You only work, you only lie, you
3 only cheat, you only steal?

4 MR. MCNAMARA: Objection.

5 Q For the money, right?

6 MR. MCNAMARA: Objection.

7 A Okay, I know that I work to earn
8 money.

9 Q You also lie so you can earn
10 money, right?

11 A If that is what you think, that's
12 fine.

13 Q It's the truth.

14 A Well, that's what you think.

15 Q Didn't you admit to lying,
16 cheating and stealing here today?

17 MR. MCNAMARA: Objection.

18 A I don't steal from anyone. You're
19 the one that says that.

20 Q You stole from your brother?

21 MR. MCNAMARA: Objection.

22 A But Louis told us.

23 Q But you stole from your brother?

24 MR. MCNAMARA: Objection.

25 Q Right?

1 M. Tulio Perez

2 A He was in agreement.

3 Q So your brother says it's okay for
4 you to steal from him, right?

5 MR. MCNAMARA: Objection.

6 A He only gave me that for the
7 union, that was it.

8 Q [REDACTED]

9 [REDACTED]

10 [REDACTED] [REDACTED] [REDACTED]

11 [REDACTED] [REDACTED]

12 Q [REDACTED]

13 [REDACTED]

14 A [REDACTED]

15 Q [REDACTED]

16 [REDACTED]

17 [REDACTED] [REDACTED] [REDACTED]

18 [REDACTED] [REDACTED]

19 [REDACTED] [REDACTED]

20 [REDACTED] [REDACTED]

21 A [REDACTED]

22 Q [REDACTED].

23 Stop playing games.

24 MR. MCNAMARA: Objection.

25 A Okay, that's fine.

1 M. Tulio Perez

2 Q [REDACTED]

3 [REDACTED]

4 MR. MCNAMARA: Objection.

5 Q [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 MR. MCNAMARA: Objection.

9 A [REDACTED]

10 Q [REDACTED]

11 [REDACTED]

12 Q [REDACTED]

13 [REDACTED]

14 Q [REDACTED]

15 [REDACTED]

16 MR. MCNAMARA: Objection.

17 A [REDACTED]

18 Q [REDACTED]

19 [REDACTED]

20 MR. MCNAMARA: Objection.

21 Counsel, I have already instructed
22 him not to answer.

23 MR. ZABELL: Give me one question
24 and then we'll move on.

25 MR. MCNAMARA: That's it, that's

1 M. Tulio Perez

2 the question.

3 MR. ZABELL: He has to answer it.

4 Q [REDACTED]

5 [REDACTED]

6 MR. MCNAMARA: Objection.

7 A [REDACTED]

8 Q Did you buy that?

9 MR. MCNAMARA: I'm directing him
10 not to answer.

11 MR. ZABELL: Let me ask if he
12 bought it. I've asked the others.

13 Q [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 A [REDACTED]

17 Q [REDACTED]

18 [REDACTED]

19 A [REDACTED]

20 Q [REDACTED]

21 MR. MCNAMARA: Objection.

22 A [REDACTED]

23 Q [REDACTED]

24 MR. MCNAMARA: Objection.

25 A [REDACTED]

1 M. Tulio Perez

2 Q [REDACTED]

3 MR. MCNAMARA: Objection.

4 A [REDACTED]

5 Q [REDACTED]

6 MR. MCNAMARA: Objection.

7 A [REDACTED]

8 Q [REDACTED] [REDACTED]

9 [REDACTED]

10 MR. MCNAMARA: Objection.

11 A [REDACTED]

12 Q [REDACTED] [REDACTED]

13 [REDACTED]

14 MR. MCNAMARA: Objection.

15 A [REDACTED]

16 Q Sure, you do.

17 MR. MCNAMARA: Objection.

18 A I don't know.

19 Q [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 A [REDACTED]

23 Q [REDACTED]

24 [REDACTED]

25 [REDACTED]

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tell me?

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your attorney?

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MR. MCNAMARA: Objection.

Right?

Maybe you should ask your brother.

Is there anything else you want to

MR. MCNAMARA: Objection.

No.

MR. ZABELL: One day, sir, we will
meet again, I assure you. Good day. You
may go now.

(Time noted: 4:42 p.m.)

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A C K N O W L E D G E M E N T

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STATE OF NEW YORK)

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: ss

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COUNTY OF)

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8

I, MARCUS TULIO PEREZ, hereby certify that

9

I have read the transcript of my testimony taken

10

under oath in my deposition of October 17, 2011;

11

that the transcript is a true, complete and

12

correct record of my testimony; and that the

13

answers on the record as given by me are true

14

and correct.

15

16

MARCUS TULIO PEREZ

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19

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Signed and subscribed to

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before me, this ____ day

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of _____, 20__

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Notary Public, State of New York

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I N D E X

<u>WITNESS</u>	<u>EXAMINATION BY</u>	<u>PAGE</u>
Marcus Tulio Perez	Mr. Zabell	4

C E R T I F I C A T E

I, MICHELLE ADAMO, a shorthand reporter and Notary Public within and for the State of New York, do hereby certify:

That the witness(es) whose testimony is herein before set forth was duly sworn by me, and the foregoing transcript is a true record of the testimony given by such witness(es).

I further certify that I am not related to any of the parties to this action by blood or marriage, and that I am in no way interested in the outcome of this matter.

Michelle Adamo

MICHELLE ADAMO

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ERRATA SHEET

I wish to make the following changes for
the following reasons:

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